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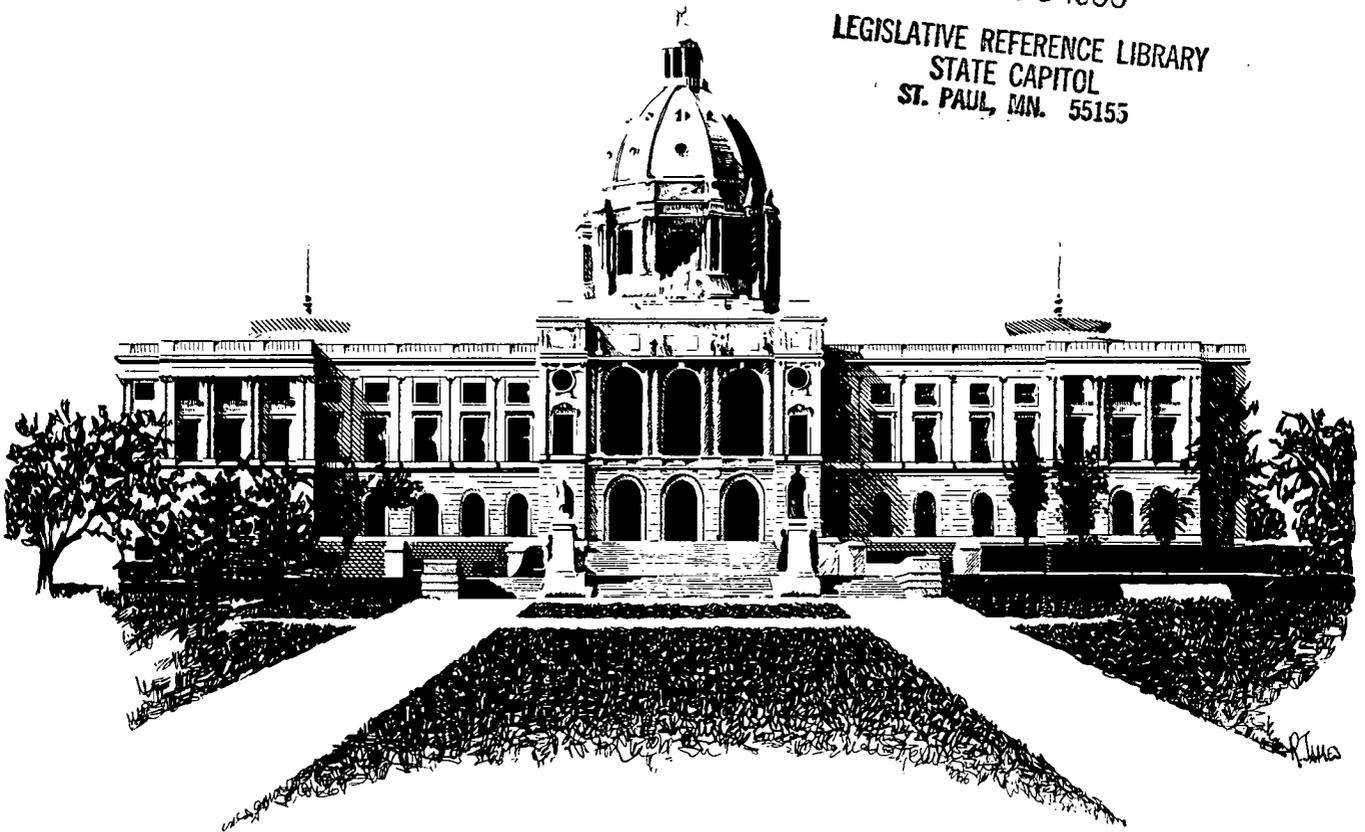
STATE REGISTER

STATE OF MINNESOTA

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VOLUME 5, NUMBER 4

July 28, 1980

Pages 65-148



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 5			
5	Monday July 21	Monday July 28	Monday Aug 4
6	Monday July 28	Monday Aug 4	Monday Aug 11
7	Monday Aug 4	Monday Aug 11	Monday Aug 18
8	Monday Aug 11	Monday Aug 18	Monday Aug 25

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$118 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the MCAR.

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EXECUTIVE ORDERS

Executive Order No. 80-7

Providing for A Declaration of Emergency

I, ALBERT H. QUIE, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, extreme drought in northwestern Minnesota has resulted in disastrous crop damage; and,

WHEREAS, the economic impact of the loss of crops will severely affect farmers and businesses of the area; and,

WHEREAS, the drought has damaged hay crops and pasture lands resulting in shortages of animal forage; and,

WHEREAS, recovery from the effects of the drought is beyond the capability of local, county, and state governments; and,

WHEREAS, these conditions have resulted in extreme hardship on the people of the affected areas;

NOW, THEREFORE, I declare a State of Emergency to exist in the counties of Becker, Beltrami, Clay, Clearwater, Hubbard, Kittson, Koochiching, Lake of the Woods, Mahnommen, Marshall, Norman, Pennington, Polk, Red Lake and Roseau, and do further direct the agencies of the state, in cooperation with appropriate federal agencies, to provide such aid to stricken areas and people as provided under existing state and federal authority.

I hereby further request the Regional Director of the Small Business Administration to declare the above counties as Economic Disaster area under the provisions of the Small Business Act, or any other applicable law, and to make available such disaster assistance as provided by law.

This order shall be effective July 2, 1980.

IN TESTIMONY WHEREOF, I hereunto set my hand this 2nd day of July, 1980.



PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Public Hearings on Agency Rules July 28-August 3, 1980		
Date	Agency and Rule Matter	Time & Place
Aug 5	Board of Education, Vocational-technical Division Distribution of Post-secondary Vocational Aids Hearing Examiner: Peter Erickson	Conference Rm. A., Capitol Square Bldg., St. Paul, MN 55101

Livestock Sanitary Board (Effective August 1, 1980 Board of Animal Health)

Proposed Amendments to Rules LSB 1 Importation of cattle., LSB 11 Eradication of bovine brucellosis in Minnesota., and Promulgation of Rules for Control of Anaplasmosis

Notice of Hearing

A public hearing concerning the proposed rule amendments and proposed rule will be held at 500 Rice Street, Saint Paul, Minnesota, on Thursday, August 28, 1980 commencing at 9:30 a.m. The proposed rule amendments and proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested (or affected) persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Richard Luis, Hearing Examiner, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, phone (612) 296-8114 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.052 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule amendments and proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Amendments to **LSB 1 Importation of cattle.** will define feedlots, exposed cattle and "S" branded cattle. Importation tests will be required on bison. Prior permits will be necessary on some cattle imported and all cattle imported from some states. Retests will be required on cattle from certain areas. Beef type heifers eight to 18 months of age imported for feeding will be restricted to feedlots. A test for anaplasmosis will be required on breeding cattle imported into Minnesota effective January 1, 1981.

Amendments to **LSB 1 Importation of cattle.** are made necessary by a Minnesota statute passed in 1980 which requires an anaplasmosis test on breeding cattle imported into Minnesota effective January 1, 1981 and to meet the minimum requirements for Brucellosis Eradication, published by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) as Uniform Methods and Rules effective September 1979.

Amendments to **LSB 11 Eradication of bovine brucellosis in Minnesota.** will redefine reactors, suspects, negative cattle and cattle herds. The test eligible age will be lowered. Provision is made for community notification of infected herds. Herds with test responses could be quarantined pending a diagnosis. Rules on retagging and retattooing of vaccinates are included. Cattle dealers are required to keep certain records of cattle purchased and sold.

PROPOSED RULES

Amendments to the rule **LSB 11 Eradication of bovine brucellosis in Minnesota**, are necessary to meet the minimum requirements for Brucellosis Eradication, published by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) as Uniform Methods and Rules effective September 1979 and to adopt rules for certain procedures necessary for eradication of bovine brucellosis.

The proposed rule on control of anaplasmosis would define an official test for anaplasmosis, require reporting of the disease and identification of cattle tested. Provisions are made for quarantine and release from quarantine of clinically affected herds and for individual responders to an official test. Use of anaplasmosis vaccines are restricted. The rule as proposed is similar to the present policy of the board for the control of anaplasmosis.

Statutory authority to promulgate the proposed rules is vested in the Livestock Sanitary Board by Minn. Stat. § 35.03 (1978). Pursuant to Laws of Minnesota (1980) ch. 467, § 2, effective August 1, 1980 the Livestock Sanitary Board will be renamed the Board of Animal Health.

The agency estimated that there will be no cost to local public bodies in the state to implement the amendments or rule for the two years immediately following its adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule amendments and proposed rule are now available and at least one free copy may be obtained by writing to Board of Animal Health, LL70 Metro Square Building, 7th and Robert Streets, Saint Paul, Minnesota 55101, telephone (612) 296-2942. Additional copies will be available at the hearing.

Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, (in the case of the Hearing Examiner's report), or to the agency, (in case of the agency's submission or resubmission to the Attorney General).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota, 55155, telephone (612) 296-5615.

July 28, 1980

J. G. Flint, D.V.M.
Secretary and Executive Officer

Amendments as Proposed

3 MCAR § 2.001 ~~LSB 1~~ Importation of Cattle and bison. Pursuant to Minnesota Statutes 1973, section 35.03 the Livestock Sanitary Board hereby adopts the following rules and regulations:

A. ~~(a)~~ Where used in these this rules and regulations the following words and terms shall be are defined as follows:

1. ~~(1)~~ "Board" shall means the Minnesota State Livestock Sanitary Board of Animal Health acting by and through the Secretary and Executive Officer or its authorized agents.

~~(2)~~ "Owner" shall mean and refer to the legal owner, his agents, and the person(s) in possession of or caring for the cattle referred to.

2. "Cattle" means all dairy and beef animals and includes bison.

3. ~~(3)~~ "Accredited veterinarian" shall means a veterinarian ~~accredited~~ approved by the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture or its successor to perform official services in connection with the functions required by cooperative animal state-federal disease control and eradication programs.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

PROPOSED RULES

4. (4) "Health certificate" shall mean a certificate issued by an accredited veterinarian after a physical examination, ~~certifying~~ stating that the cattle described are free from symptoms of contagious, infectious, or communicable disease and shall include a statement of the origin of the cattle and the name and address of the consignee.

5. (5) "Official identification" of purebred cattle shall consist of the following:

- a. ~~(aa)~~ Official registration number, tattoo, or complete ear tag number.
- b. ~~(bb)~~ Breed.
- c. ~~(cc)~~ Sex.
- d. ~~(dd)~~ Age.
- e. ~~(ee)~~ Positive identification of brucellosis vaccinates by vaccination certificate, legible tattoo or official vaccination ear tag, or vaccination brand.

6. (6) "Official identification" of grade cattle shall consist of the following:

- a. ~~(aa)~~ Complete ear tag number.
- b. ~~(bb)~~ Predominant breed characteristics or color markings.
- c. ~~(cc)~~ Sex.
- d. ~~(dd)~~ Age.
- e. ~~(ee)~~ Positive identification of brucellosis vaccinates by vaccination certificate, legible tattoo or official vaccination ear tag, or vaccination brand.

7. (7) "Herd" shall mean any number of all cattle owned by one or more persons under common ownership or supervision on one or more that are grouped on one or more parts of any single premises, which could readily associate with or contact one another, or are routinely cared for by the same personnel or all cattle on two or more premises geographically separated but on which the cattle have been interchanged or where there has been contact of cattle between the premises.

8. (8) "Dairy breed" shall mean breeds of cattle whose primary purpose is the production of milk.

9. (9) "Beef breed" shall mean all breeds of cattle except dairy breed.

10. (10) "Breeding cattle" shall mean all cattle except steers, spayed heifers, and heifers of beef breed between the ages of 8 and 18 months imported for feeding and grazing purposes, or slaughter cattle as defined in paragraph (13) 13.

11. (11) "Feeding and grazing cattle" shall mean all steers, spayed heifers, and beef breed heifers of beef breed between under the ages of 8 and 18 months of age imported for feeding and grazing purposes to be confined to a feedlot.

(12) "Calves" shall mean:

- (aa) All cattle of dairy breed under 6 months of age.
- (bb) All cattle of beef breed under 8 months of age.

12. "Feedlot" means a confined drylot area for finish feeding of cattle on concentrated feeds with no facilities for pasturing or grazing.

13. (13) "Slaughter cattle" shall mean all types of cattle not used for dairy, breeding, or feeding and grazing in channels of trade moving to a recognized slaughtering establishment with no diversion to farm or ranch.

(14) "Approved dry lot feeding premises" shall mean an area approved by the Board in accordance with the provisions of regulation LSB 57, Rules and Regulations Governing Approved Dry Lot Feeding Premises.

14. "Brucellosis exposed cattle" means cattle that are part of a known infected herd that have been in contact with brucellosis reactors in marketing channels for periods of 24 hours or periods of less than 24 hours if the reactor has recently aborted, calved, or has a vaginal or uterine discharge regardless of the blood test results. After January 1, 1982 any period of contact in marketing channels shall be considered exposed.

15. (15) "Official calthood vaccinate" means a female bovine animal of a dairy breed vaccinated against brucellosis with an approved Brucella vaccine while from 23 to 6 months (60 90 to 179 days) of age, or a female bovine animal of a beef breed vaccinated against brucellosis with an approved Brucella vaccine while from 23 to 10 months (60 90 to 299 days) of age, permanently identified as a vaccinate, and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of bovine brucellosis.

16. "S-branded cattle" means cattle that have been identified by branding with a hot iron the letter "S" at least 2 x 2 inches on the left jaw or high on the tailhead over the fourth to seventh coccygeal vertebrae.

B. (b) Cattle consigned to public stockyards, ~~State Federal approved~~ markets approved under Part 78 Code of Federal Regulations, or slaughtering establishments.

1. Cattle of any class may be consigned without a health certificate or tests for ~~either tuberculosis or brucellosis~~ to a public stockyard or ~~State Federal approved~~ market approved under Part 78 Code of Federal Regulations.

2. Cattle for immediate slaughter only may be consigned without a health certificate or tests for ~~either tuberculosis or brucellosis~~ to slaughtering establishments where the ~~state or~~ federal government maintains inspection. ~~Cattle officially condemned for tuberculosis or brucellosis may be consigned to these points in compliance with federal regulations for the interstate movement of such cattle.~~

C. Movement of S-branded cattle and B-branded cattle. The following cattle may move without diversion or unloading to public stockyards or to a slaughtering establishment operating under Federal inspection, provided a shipping permit issued by an accredited veterinarian accompanies the shipment.

1. Reactor cattle and B-branded exposed cattle.

2. S-branded cattle, including:

a. suspects.

b. exposed cattle in channels of trade.

c. untested test-eligible cattle from states that are not certified brucellosis free.

D. Cattle quarantined for any disease may not enter the state except that:

1. Cattle may enter the public stockyards to be unloaded at quarantine pens to be sold directly to a slaughtering establishment provided a shipping permit from the state of origin accompanies the shipment and a copy of the permit is delivered to the person receiving the shipment.

2. Cattle may enter a slaughtering establishment with federal inspection provided a shipping permit from the state of origin accompanies the shipment and a copy of the permit is delivered to the inspector in charge. All such shipments shall comply with all state and federal requirements.

E. (e) Health certificates.

(1) All cattle imported into the state of Minnesota, with the exception of those described in section (b), shall be accompanied by a health certificate issued by an accredited veterinarian. Except where specifically exempted in the following sections, the health certificate shall include:

(aa) The official identification of each animal in the shipment.

(bb) Evidence of a negative agglutination test for brucellosis made within thirty (30) days prior to importation.

1. The following shipments of cattle do not need health certificates:

a. Cattle of any class consigned to the public stockyards or markets approved under Part 78 Code of Federal Regulations.

b. Slaughter cattle shipped directly to slaughtering establishments under federal inspection.

(2) The agglutination blood test may be conducted by a veterinarian and the results of such test shall be confirmed by a State or Federal laboratory. Cattle may be moved upon completion of the veterinarian's test. If tests are not made by the same veterinarian issuing the certificate, the name and address of such veterinarian and laboratory making the tests shall be included on the certificate.

2. Cattle of any class consigned to individuals or to state approved markets must be accompanied by a health certificate.

(3) Proof of official brucellosis vaccination when vaccinated animals are included in the shipment shall be documented on the health certificate.

3. Health certificates shall show:

a. The consignee's name and address.

b. The status of the herd and area of origin.

c. All identity numbers of the animals in the shipment where required by this rule.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

PROPOSED RULES

d. The results of all tests required in F.

e. Date of vaccination or ear tattoo of Official Calhhood Brucellosis Vaccinated Cattle.

f. Age, sex and breed.

g. The purpose for which the cattle are to be moved.

h. Permit number where required.

(4) The health certificate shall be:

(aa) Attached in two copies to the waybill if cattle are moved into the State by railroad and one copy shall be delivered by the carrier to the consignee or his agent, or

(bb) In the possession of driver if cattle are moved into State by vehicle other than by railroad; or

(cc) In the possession of person(s) in charge of cattle moved into the State on foot.

4. All health certificates shall be submitted to the Animal Health Office of the state of origin for approval within one week of the issue date.

F. Tests required.

1. Brucellosis.

a. Official tests for brucellosis in the state of origin shall be used.

b. All tests shall be confirmed at a state-federal cooperative laboratory. Cattle may commence movement based on negative tests by authorized persons prior to laboratory confirmation.

c. With the exception of the following all cattle must be negative to brucellosis tests within 30 days prior to movement into Minnesota:

(1) Cattle from Certified Brucellosis-Free Herds.

(2) Calves under 6 months of age.

(3) Cattle shipped directly to the public stockyards or markets approved under Part 78 Code of Federal Regulations.

(4) Slaughter cattle going directly to a slaughtering establishment under federal inspection.

(5) Official calhhood vaccinated dairy heifers under 20 months of age and official calhhood vaccinated beef heifers under 24 months of age.

(6) Beef type heifers under 18 months of age for feeding purposes entering a Minnesota feedlot under permit from the board.

(7) Steers and spayed heifers.

2. Anaplasmosis—with the exception of the following, all cattle must be tested negative to an official anaplasmosis test at an approved laboratory within 30 days prior to movement:

a. Calves under 6 months of age.

b. Cattle shipped directly to the public stockyards or markets approved under Part 78 Code of Federal Regulations.

c. Slaughter cattle going directly to a slaughtering establishment under federal inspection.

d. Beef type heifers under 18 months of age for feeding purposes entering a Minnesota feedlot under permit from the board.

e. Steers and spayed heifers.

f. Cattle that have been sampled for anaplasmosis, the results of which are pending, provided a permit has been secured from the board.

3. Tuberculosis—with the exception of the following, all cattle must be negative to an intradermal tuberculin test conducted by an accredited veterinarian within 60 days prior to movement into Minnesota.

a. Cattle from Tuberculosis-Free-Accredited Herds.

b. Cattle under 6 months of age.

c. Cattle shipped directly to a public stockyards or markets approved under Part 78 Code of Federal Regulations.

d. Slaughter cattle going directly to a slaughtering establishment under federal inspection.

e. Beef type heifers under 18 months of age for feeding purposes entering a Minnesota feedlot under permit from the board.

f. Steers and spayed heifers.

g. Cattle entering to be tested within 72 hours after arrival provided a permit is secured from the board.

h. Cattle from accredited tuberculosis free states that have a reciprocity agreement with Minnesota.

G. Negative cattle tested for anaplasmosis as required in F.2., are not eligible for entry if one or more cattle in the herd of origin react greater than 3+ in the 1:5 dilution.

H. Imported cattle leaving a market approved under Part 78 Code of Federal Regulations or imported on permit pending the laboratory results of the anaplasmosis blood test drawn at the market or in the state of origin are under quarantine until the test results are determined.

1. Negative test results shall release the quarantine.

2. Positive test results shall release the quarantine after:

a. Positive cattle have been returned to the state of origin, or:

b. Positive cattle have been sent to slaughter under permit.

(d) Cattle for immediate slaughter.

(1) Apparently healthy cattle may be imported into Minnesota without individual identification or tests for tuberculosis or brucellosis if consigned for immediate slaughter to an establishment not under inspection by the United States Department of Agriculture, or the State of Minnesota, provided that a permit is obtained from the Secretary and Executive Officer of the Board for each shipment. Such cattle shall be accompanied by a health certificate as provided in section (c). The health certificate shall list the permit number and the number and description of all cattle in the shipment.

(2) Cattle imported under the provisions of this section shall not be unloaded enroute at any point in Minnesota, except when required by Federal law or regulations governing feed, water, and rest. Such cattle shall be slaughtered within 5 days following the date of importation, except when the 5-day period is extended in writing by the Board. Such cattle following arrival at destination shall be held separate and apart from all other cattle, except cattle of the same class, until slaughtered. The consignee shall immediately report to the Board when such cattle are slaughtered, giving the date and place of slaughter and the number of the permit under which the cattle were imported.

(e) Calves.

(1) Unless sold or resold for immediate slaughter, no calves under two (2) months of age, unless accompanied by dam, may be imported into Minnesota for sale or resale except the permits may be obtained by Minnesota residents for importation of such calves for their own use.

(2) Calves of beef breed, over 2 and under 8 months of age, and calves of dairy breed, over 2 and under 6 months of age, may be imported into Minnesota when accompanied by a health certificate as provided in section (c) without either individual identification or tests for tuberculosis and brucellosis.

(f) Breeding cattle from accredited tuberculosis-free herds. Cattle originating directly from accredited tuberculosis-free herds may be imported into Minnesota without a tuberculosis test provided the health certificate lists the date of the last test and the accredited herd certificate number. Progeny of herd since last test need not be tested.

(g) Breeding cattle from modified accredited tuberculosis areas. Cattle from modified accredited tuberculosis areas shall originate from herds not under quarantine. Such cattle shall be accompanied by a health certificate certifying to a negative test for tuberculosis made within 60 days prior to importation. This requirement does not apply to dairy calves under six months of age or beef calves under eight months of age, nor to cattle from States having reciprocity agreements with Minnesota.

(h) Breeding cattle from certified brucellosis-free herds. Cattle originating directly from certified brucellosis-free herds may be imported into Minnesota without a brucellosis test provided the health certificate lists the date of the last test and the brucellosis-free herd certificate number. Progeny of herd since last test need not be tested.

(i) Breeding cattle from modified certified brucellosis areas.

(1) Cattle from modified certified brucellosis areas shall originate from herds not under quarantine. Such cattle shall be accompanied by a health certificate certifying to a negative test for brucellosis made within 30 days prior to importation.

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(2) Official vaccinates from such herds may be imported as follows:

(aa) Official vaccinates of the beef breeds under 24 months of age and official vaccinates of the dairy breeds under 20 months of age may be imported without a test for brucellosis but shall be accompanied by proof of vaccination.

(bb) Official vaccinates of the beef breeds 24 months of age and over and official vaccinates of the dairy breeds 20 months of age and over shall be tested for brucellosis within 30 days prior to importation. The test shall show a reaction no higher than a complete agglutination in a dilution of 1:50.

(3) Cattle from states with an incidence of infection of five herds or more per thousand herds as determined by the most current statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation.

(4) Calves are not required to be tested.

I. Cattle imported without health certificate except where specifically exempted in this rule, or imported when not in compliance with this rule are under quarantine. Such cattle shall be examined and tested to meet the requirements of this rule by an accredited veterinarian at owner's expense within 72 hours thereafter. Cattle that are not negative to brucellosis, tuberculosis, or anaplasmosis shall be sent to slaughter on permit or returned to the herd of origin on a permit from the state of origin. Cattle with other infectious, contagious or communicable disease shall be sent to slaughter with permit, returned to the point of origin with permit, or continued in quarantine at the direction of the board.

(j) No cattle shall be imported from herds from which reactors have been removed until the herd of origin has passed two consecutive negative brucellosis herd tests with the first test occurring not less than thirty (30) days following removal of the reactors and the second test not less than ninety (90) days following the first negative test.

J. Permits.

1. The following types of cattle may be imported with a health certificate for a stated purpose provided a permit is obtained from the board prior to movement.

- a. Breeding cattle not tested for tuberculosis in the state of origin, to be tested on arrival in Minnesota.
- b. Calves less than two months of age.
- c. Cattle from non-brucellosis free states.
- d. Female feeding cattle of beef type and breed less than 18 months of age entering for feeding purposes without tests.
- e. Cattle that have been sampled for anaplasmosis, the results of which are pending.

(k) Importation of breeding cattle for test upon arrival.

(1) When circumstances justify the importation of cattle without test for tuberculosis or brucellosis the Board may issue a permit for importation of such cattle without such tests, provided the cattle are held in quarantine completely isolated from all other cattle until tested at owner's expense to meet the requirements of (g) and (i).

(2) All cattle which disclose a positive reaction to the tuberculosis test and/or non-brucellosis vaccinates which are not completely negative to the brucellosis test shall be identified as reactors. Official vaccinates of dairy breeds over 20 months of age and official vaccinates of beef breeds over 24 months of age which disclose a positive reaction to the brucellosis test higher than complete agglutination in a dilution of 1:50 shall be identified as reactors. All such cattle identified as reactors shall be shipped for slaughter, accompanied by a permit from the Board, to some point where the Federal government maintains inspection. Such reactors are not eligible for indemnity.

K. Cattle may be imported from states that are not certified brucellosis-free provided that:

1. Cattle from modified certified states require:

- a. A permit.
- b. A negative test within 30 days prior to movement.
- c. A retest in not less than 45 nor more than 120 days following arrival.

2. Cattle from non-certified states require:

- a. The cattle originate from a herd tested negative within the previous 12 months.
- b. Negative test within 30 days prior to movement.
- c. A permit.
- d. A retest in not less than 45 nor more than 120 days following arrival.

L. (1) Feeding and grazing cattle ~~{as defined in section (a), paragraph (1)}~~ may be imported as follows:

1. (1) Steers, spayed heifers, and calves ~~over 2 and under 6 8 months of age, originating in herds not under quarantine for tuberculosis or for brucellosis may be imported into Minnesota or removed from public stockyards without identification by ear tag and without tests for either tuberculosis or brucellosis~~ must be listed on a health certificate but need not be identified or tested.

(2) Other feeding and grazing cattle, not included in (1) (1), may be imported into Minnesota in compliance with the provisions of one of the following:

(aa) Tested for brucellosis within 30 days prior to importation.

(bb) Under permit, providing for either test for brucellosis upon arrival in compliance with section (k), paragraph (1), or resale under affidavit and quarantine as provided in paragraph (4) of this section.

(cc) Official vaccinates of beef breed, as defined in section (a), paragraph (15), may be imported for feeding and grazing purposes when under eighteen (18) months of age.

(dd) Under SPECIAL PERMIT as outlined in paragraph (4) of this section.

(3) A tuberculosis test is not required on cattle imported from modified accredited tuberculosis areas under the provisions of section (1), paragraph (2) above. Such cattle so imported are quarantined upon arrival at destination and shall be maintained in isolation separate and apart from all other cattle except like quarantined cattle. The quarantine on such feeding and grazing cattle may be released by the Board under the following conditions:

(aa) When the Board has received satisfactory evidence that the cattle have been shipped under permit to a public stockyard or slaughtering establishment.

(bb) When such cattle have passed all tests for tuberculosis and brucellosis required by regulations and the records of such tests have been received in the office of the Board.

(4) The Board may issue a SPECIAL PERMIT providing for the importation, or movement from public stockyards, of individual shipments of female feeding and grazing cattle. Such cattle may enter under quarantine without tests for tuberculosis or brucellosis either at points of origin or destination provided:

(aa) Such cattle are accompanied by a health certificate.

(bb) Such cattle shall be immediately delivered to premises at the destination shown on the permit, and shall be segregated from all other cattle except steers, spayed heifers, or like quarantined cattle imported into Minnesota under the provisions of this section, or maintained in accordance with the provisions of a feeder cattle affidavit as provided in Minnesota Statutes 1973, section 35.245, subdivision 3. Such segregation shall include double fencing where said cattle are confined in such a manner as to prevent access to other cattle in adjoining yards, pastures, or field, and such fencing as may be necessary to prevent access of such quarantined cattle to water courses or drainage ditches which flow through or discharge onto such yards, pastures, or fields.

(cc) That all cattle in such shipment shall be maintained separate and apart from all other cattle, except steers, spayed heifers, and like quarantined cattle, from time of arrival at destination until:

(i) Shipped for slaughter under permit from the Board, or

(ii) Consigned to a public stockyard where State or Federal inspection is maintained, or

(iii) Resold for feeding purposes in accordance with Minnesota Statutes 1973, section 35.245, subdivision 3, and the rules and regulations of the Board, adopted pursuant thereto.

(iv) At the discretion of the Board, the owner of either SPECIAL PERMIT cattle or AFFIDAVIT cattle, (as provided in Minnesota Statutes 1973, section 35.245, subdivision 3), may be authorized to have all or a part of such cattle tested for tuberculosis and brucellosis on his premises at his expense to meet import requirements. Such tested cattle shall be maintained or disposed of as follows:

(aaa) If all of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and found negative the quarantine will be released.

(bbb) If reactors are disclosed no cattle may be sold except for slaughter or permit from the Board.

(ccc) The diagnosis of brucellosis tests shall be made in accordance with regulation LSB 11.

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(ddd) If all the SPECIAL PERMIT or AFFIDAVIT cattle are tested and suspects are disclosed the suspects shall be sent to slaughter on permit from the Board or isolated from all other tested cattle and all negative cattle may be sold.

(eee) If part of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and suspects are disclosed the suspects shall be sent to slaughter on permit from the Board and all negative cattle sold under quarantine for a retest no sooner than 30 not more than 60 days following the first test.

(fff) If only part of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and negative then such cattle must be isolated until retested for brucellosis at owner's expense no sooner than thirty (30) days nor more than 60 days following the initial test, or sold under quarantine for retest at owner's expense no sooner than thirty (30) not more than 60 days following the initial test.

(ggg) Any animal showing a positive reaction to the tuberculosis test and all brucellosis reactors shall be identified as reactors and shipped for slaughter to a slaughtering establishment where there is Federal inspection. A permit from the Board is required and such reactors are not eligible for indemnity.

(dd) The owners of all such cattle shall permit agents of the Board to inspect and examine said cattle and the premises on which they are maintained at any reasonable time that such agents make demand therefor.

(ee) If such agents determine that said cattle are not satisfactorily confined as provided in section (1), paragraph (4), subparagraph (bb) above, the owner of said cattle shall immediately correct the facilities for segregation. The owner shall, at his own expense, employ a veterinarian to test all cattle which have either associated with or have been exposed to the quarantined cattle for tuberculosis and/or brucellosis. Steers and spayed heifers are not required to be tested for brucellosis. All such exposed cattle which are not completely negative to such tests shall be identified as reactors. All reactors shall be shipped for slaughter, accompanied by a permit, to some point where Federal inspection is maintained. Such reactors are not eligible for indemnity.

2. Heifers of beef type and breed under 18 months of age must be listed on a health certificate but need not be identified or tested provided a permit is secured from the board. Such cattle must be segregated from all other cattle except steers, spayed heifers, like quarantined cattle, or cattle purchased in accordance with the provisions of a feeder affidavit quarantine as provided in 3 MCAR § 2.011. Segregation shall consist of a drylot with no pasturing and grazing and double fencing to prevent access to drainage and other cattle.

a. Such cattle may be:

(1) Retained in feedlot for a period not to exceed 12 months.

(2) Sold for further feeding under feeder affidavit quarantine as provided in 3 MCAR § 2.011.

(3) Sold for slaughter.

(4) Upon application by the owner of such quarantined cattle, the board at its discretion may grant permission to the owner to make the necessary tests at his own expense to relieve the quarantine. In no case shall the requirements for tests be less than the tests required for breeding cattle.

(5) Moved to another state providing the movement is in compliance with state and federal regulations.

(m) Approved dry lot feeding premises.

(1) The Board may issue a permit providing for the importation or movement from public stockyards, under quarantine, to approved dry lot feeding premises of individual shipments of all types of cattle without tests for tuberculosis or brucellosis either at points of origin or destination provided.

(aa) The consignment is accompanied by a health certificate.

(bb) Each animal is individually identified by an official ear tag.

(cc) All cattle received under such permit are immediately delivered to and confined only in the approved dry lot feeding premises shown on the permit. There shall be no diversion enroute.

(dd) All cattle imported under permit into an approved dry lot feeding premises are branded with the letter "F" at least 3 inches high on the right jaw with a hot iron in such a manner that the brand shall be permanent. It shall be the responsibility of the owner or his agent(s) to brand such cattle either prior to or within 72 hours following their arrival at such premises.

M. This rule shall be effective on January 1, 1981.

(n) Cattle not accompanied by proper health certificate.

(1) All cattle imported into Minnesota in violation of State law or these rules and regulations are under quarantine. Such cattle shall be examined and tested for tuberculosis and brucellosis as required within 72 hours thereafter. Such examination and tests shall be made by a veterinarian at owner's expense. All cattle showing symptoms of any infectious, contagious, or communicable disease when so examined shall be shipped, under permit for slaughter only. All cattle which do not evidence completely negative reactions to tests

for tuberculosis or brucellosis shall be immediately identified as reactors and shipped under permit, for slaughter only, to some point where Federal inspection is maintained. Official vaccinates shall be diagnosed in accordance with previous sections of this regulation.

3 MCAR § 2.011 ~~LSB11~~ Eradication of Bbovine and bison Bbrucellosis in Minnesota.

A. Definitions:

1. ~~Board means the Minnesota State Livestock Sanitary Board or its authorized agent.~~ “Board” means the Minnesota State Board of Animal Health or its authorized agent.

2. “Owner” means the legal owner, his agents and the person in possession of or caring for the cattle referred to.

3. “Herd” means any number of cattle owned by one or more persons which are maintained on one or more premises and which associate with or contact one another or are cared for by the same personnel. A “herd” is all cattle under common ownership or supervision that are grouped on one or more parts of any single premises or all cattle on two or more premises geographically separated but on which the cattle have been interchanged or where there has been contact of cattle between the premises.

4. “Veterinarian” means a veterinarian licensed and accredited in Minnesota or a veterinarian of the USDA.

5. “Test and Testing” means the standard brucellosis plate (SPT) and tube (STT) blood serum agglutination tests, brucella buffered antigen (card or BBA) test or other tests approved by the Board, conducted by a veterinarian authorized by the Board to conduct the test, or by a State or U.S. State Laboratory, on blood samples collected and submitted by a veterinarian. All blood samples accompanied by three copies of the test chart and with results of tests conducted by the veterinarian, shall be submitted to the State or U.S. State Laboratory.

5. Test and testing.

a. Blood samples shall be collected and submitted by a veterinarian.

b. Standard plate test or other field tests approved by the board may be made by a veterinarian approved by the board to conduct field tests.

c. All blood samples accompanied by test charts in triplicate with results of field test recorded shall be submitted to a state or state-federal laboratory to confirm the field test. The laboratory test shall be the official test if there is more than one-half titer variation between the laboratory test and the field test.

d. Tests used at the state or state-federal laboratory shall include the buffered acidified plate antigen test (BAP), rapid screening test (RST), standard plate test (SPT), card test (BBA), standard tube test (STT), rivanol test (RIV), complement fixation test (CF), and other tests approved by the board.

6. “Ring Test” means the brucellosis agglutination test (BRT) of milk or cream.

7. “Market Cattle Test” (MCT) means a brucellosis test conducted on marketed cattle.

8. Supplement Test means an additional test for brucellosis other than the first test conducted on a blood sample in a State or U.S. State Laboratory.

9. Vaccinate means female dairy cattle under 20 months of age which have received subcutaneous injections of USDA licensed Brucella abortus Strain 19 vaccine when from two to six months of age (60-179 days) and female beef cattle under 24 months of age which have received subcutaneous injections of USDA licensed Brucella abortus Strain 19 vaccine when from two through seven months of age (60-239 days) in accordance with these rules. Official dairy vaccinates 20 months of age and over and beef vaccinates 24 months of age and over with brucellosis test titers not over complete agglutination at a 1:50 dilution are diagnosed vaccinate.

8. “Official brucellosis calfhood vaccinate” means female dairy cattle under 20 months of age vaccinated against brucellosis while from two through five months of age (60-179 days) and female beef cattle under 24 months of age vaccinated against brucellosis while from two through seven months of age (60-239 days) in accordance with these rules.

10. Negative cattle means cattle showing no reaction in blood serum agglutination test dilution of 1:50 or higher; cattle showing no reaction on the card test. Variations may be accepted by the Board.

9. “Negative” means:

a. Official dairy vaccinates 20 months of age and over and beef vaccinates 24 months of age and over with brucellosis test titers not higher than complete agglutination at a 1:50 dilution on the standard plate test or standard tube test unless diagnosed suspect or reactor on basis of card test, rivanol test or complement fixation test.

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b. Cattle more than six months of age when the standard plate test or standard tube test disclose reactions of not more than complete agglutination in the 1:25 dilution, if performed; are negative to the brucellosis card test, if performed; disclose 25 percent fixation or less (1 plus) at the 1:10 dilution on the complement fixation test, if performed; or disclose less than complete agglutination at the 1:25 dilution on the rivanol plate agglutination test, if performed. The board may accept variations.

c. Cattle negative to the rapid screening test when no other tests are performed.

d. Cattle negative to the buffered acidified plate antigen test when no other tests are performed.

~~11. Suspect means cattle showing a reaction to a test that does not qualify as a reactor, negative or vaccinate.~~

10. "Suspect" means:

a. Official vaccinates of dairy breeds 20 months of age or over and official vaccinates of beef breeds 24 months of age and over (as evidenced by the presence of the first pair of permanent incisor teeth) or official vaccinates under these ages that are parturient (springers) or post-parturient when they disclose any standard plate test or standard tube test agglutination reactions in the dilution of 1:100 or incomplete agglutination in the 1:200 dilution.

(1) Vaccinated cattle serologically negative to the standard plate test or standard tube test but which are positive to the brucellosis card test, if it is performed.

(2) Vaccinated cattle having less than 25 percent fixation (1 plus) in a dilution of 1:40 and 50 percent (2 plus) or more in a dilution of 1:10 to the complement fixation test, if it is performed.

b. All other cattle more than six months of age when they disclose any standard plate test or standard tube test agglutination reactions in a blood titer dilution of 1:50 or incomplete agglutination in the 1:100 dilution.

(1) Cattle serologically negative to the standard plate test or standard tube test but which are positive to the brucellosis card test, if it is performed.

(2) Cattle having less than 50 percent fixation (2 plus) in a dilution of 1:20 and 50 percent fixation (2 plus) or more in a dilution of 1:10 to the complement fixation test, if it is performed.

c. The board may accept variations.

~~12. Reactor means:~~

~~a. Cattle over six months of age showing a complete agglutination in a dilution of 1:100; official dairy vaccinates 20 months of age and over and beef vaccinates 24 months of age and over, or under these ages if parturient or post-parturient, showing a complete agglutination in a dilution of 1:200; cattle positive on the card test. Variations may be accepted by the Board.~~

~~b. Cattle showing supplemental test results which would justify a reactor diagnosis.~~

~~e. Cattle which show an increasing titer on consecutive tests.~~

~~d. Cattle from which Brucella micro-organisms, other than Strain 19, have been isolated.~~

11. "Reactor" means:

a. Official vaccinates of dairy breeds 20 months of age and over and official vaccinates of beef breeds 24 months of age and over (as evidenced by the presence of the first pair of permanent incisor teeth) or official vaccinates under these ages that are parturient (springers) or post-parturient when they disclose complete standard plate test or standard tube test agglutination reactions in the blood titer dilution of 1:200 or higher.

(1) Positive to the brucellosis card test where it has been the only test conducted.

(2) Disclose titers of 25 percent fixation (1 plus) in a dilution of 1:40 or higher on the complement fixation test, if it is performed.

(3) Disclose a complete agglutination reaction in the 1:25 dilution or higher on the rivanol test, if it is performed.

b. All other cattle more than six months of age when they disclose a complete agglutination reaction in the blood titer dilution of 1:100 or higher on the standard plate test or standard tube test.

(1) Are positive to the brucellosis card test where it has been the only test conducted.

(2) Disclose titers of 50 percent fixation (2 plus) in a dilution of 1:20 or higher on the complement fixation test.

(3) Disclose a complete agglutination reaction in the 1:25 dilution or higher on the rivanol test.

c. Found infected by isolation of Brucella abortus micro-organisms.

d. Cattle which show an increasing titer on consecutive tests.

e. The board may accept variations.

PROPOSED RULES

~~13. Exposed cattle means those that are part of a brucellosis infected herd or have been in contact with a brucellosis reactor 24 hours, or less than 24 hours if reactor has recently aborted, calved, or has a vaginal or uterine discharge.~~

12. Exposed cattle means those that are part of a brucellosis infected herd or have been in contact with a brucellosis reactor 24 hours, or less than 24 hours if reactor has recently aborted, calved, or has a vaginal or uterine discharge. Starting January 1, 1982 the definition of exposed cattle shall be: cattle that are part of a known affected herd or have been in contact with brucellosis reactors in marketing channels regardless of the blood test results.

~~13. 14. "Negative herd" means one in which no reactors or suspects were diagnosed on the last test and which is not under an infected herd quarantine.~~

~~14. 15. "Suspect herd" means one in which one or more suspects but no reactors were diagnosed on the last test and which is not under an infected herd quarantine.~~

~~15. 16. "Infected herd" means one in which one or more reactors were diagnosed on the last test or which is under an infected herd quarantine.~~

16. "Cattle" means both bovine and bison.

B. General requirements.

1. Veterinarians shall report to the board all herds infected with bovine brucellosis, or suspected of being infected with bovine brucellosis.

2. The board may demand tests of infected herds, or cattle diagnosed as a suspect, or exposed cattle, or herd of origin of market cattle test reactors, or brucellosis ring test positive herds, or any cattle when necessary for the eradication of bovine brucellosis, and the owner or his agent shall present them and assist with the testing.

3. Testing.

~~a. All cattle over 12 months of age shall be eligible for test except:~~

a. All cattle over six months of age shall be eligible for test except:

(1) Steers.

(2) Spayed heifers.

(3) Official dairy vaccinates under 20 months of age and beef vaccinates under 24 months of age which are not parturient or post-parturient.

(4) Feeding cattle in a dry lot area without pasture or grazing facilities.

~~(5) Feeding and grazing cattle imported into the State on special permit and quarantined in compliance with Section (1) of LSB 1, Importation of Cattle and Minn. Stat. § 35.245, subd. 3 (1974).~~

(5) Feeding cattle of beef type and breed imported into the state on special permit and maintained under quarantine.

~~(6) Female feeding and grazing cattle under 18 months of age of beef type and breed sold under affidavit and maintained under quarantine in compliance with Section E. 1. f. of this rule and Minn. Stat. § 35.245, subd. 3(1974).~~

~~The Board may test all cattle in infected herds.~~

(6) Feeding cattle of beef type and breed sold under affidavit when under 18 months of age and maintained under quarantine.

b. The board may test all cattle in infected herds.

~~c. b. Blood samples shall be collected by a veterinarian at owner's expense unless the board or cooperating agency authorizes collection of blood samples at state or federal expense.~~

~~e. Cattle tested shall be individually identified by an official ear tag with the Minnesota prefix inserted in the right ear, tattoo, or other permanent identification.~~

d. Cattle tested shall be individually identified by an official ear tag with the Minnesota prefix inserted in the right ear, registry tattoo, registry number, or a private ear tag inserted by the owner or his agent which individually identifies each animal in the herd.

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e. ~~4.~~ Suspects, exposed cattle and infected herds shall be retested at approximately 30 days intervals.

4. Reactors are to be identified and appraised upon demand within 15 days of the test date and with an official reactor tag in the left ear and a "B" hot brand at least two x two inches on the left jaw. Reactors must be sold within 15 days of appraisal for slaughter only, with a shipping permit. The time intervals may be extended by the cooperating state and federal officials for reasons mutually accepted.

5. Quarantines shall be established on all cattle in infected herds confining all cattle to the premises where tested and restraining them from water courses by fencing and from contacting adjacent herds. Cattle diagnosed suspect, or exposed cattle other than those in infected herds, or herd of origin of market cattle test reactors shall be quarantined to premises where tested or herd of origin.

a. The board shall serve written notice of the brucellosis quarantine on the owner either personally or by mail to the owner's post office address as on the test chart.

~~b. Infected herd quarantines will be released after two consecutive negative herd tests, the first conducted at least 30 days after slaughter of all reactors and the second test not less than 90 days following the first negative test. A third test may be required 90 days after the quarantine is released.~~

b. Infected herd quarantines will be released after two consecutive negative herd tests, the first conducted at least 30 days after slaughter of all reactors and the second test not less than 90 days following the first negative test. An additional blood test of all test-eligible cattle in the herd shall be made not less than six months after release of an infected herd quarantine.

(1) Exception to intervals between tests are allowable when Brucella abortus Strain 19 organisms have been isolated from the reactor, or all epidemiologic evidence is consistent with Brucella abortus Strain 19 infection and not with virulent infection.

c. Suspects and exposed cattle other than those in infected herds will be released from quarantine when on the basis of test and supplemental test results a negative or vaccinate status is allowed or when suspects or exposed cattle are shipped for slaughter with a shipping permit. If suspects requiring retest are not available a complete herd test is necessary unless it is determined on the basis of epidemiological investigation and evaluation of two or more consecutive retest and supplemental test results that the herd test is not indicated if the suspect is shipped for slaughter with a shipping permit.

d. Quarantines on herd of origin of market cattle test reactors will be released if a herd test disclosed no additional reactors and there is no evidence suggestive of Brucella infection or exposure thereto.

6. A quarantine may be established on an entire herd until a final diagnosis is made when an animal from the herd discloses a reaction to the brucellosis test.

a. An infected herd quarantine shall be established if a reactor diagnosis is made.

b. Quarantine on herd shall be released if a suspect diagnosis is made.

~~7. 6.~~ Restricted area quarantines may be established by the board when an owner refuses to comply with any part of this rule, confining all cattle to a defined area until the owner complies with the rule.

8. 7. Movement of brucellosis quarantined reactor, exposed and suspect cattle.

a. Brucellosis quarantined cattle shall be sold only for slaughter at establishments where federal meat inspection is maintained or to public stockyards or state and federal markets approved to receive brucellosis quarantined cattle for sale to such establishments for slaughter and must be accompanied by a shipping permit.

(1) Reactors must be identified as provided in B.4. of this rule.

(2) Exposed cattle moved to slaughter or interstate must be identified with a hot "S" brand at least two x two inches on the left jaw.

(3) Brucellosis suspects or exposed cattle may be returned to their herd of origin from markets without being "S" branded if accompanied by a shipping permit.

(4) Brucellosis negative quarantined cattle may be moved to other premises of the owner if accompanied by a shipping permit issued by the board.

b. The owner shall give the shipping permit to the transporting agent, who shall give it to the consignee or his agent at time cattle are delivered, who shall receipt it and return it to the board.

c. A copy of all shipping permits issued is to be submitted to the board.

9. 8. Infected premises shall be cleaned and disinfected under regulatory supervision within 15 days following removal of reactors. Extension and exemption may be authorized by the cooperating State and Federal officials.

10. 9. Official vaccination:

~~a. Brucella abortus Strain 19 vaccine shall be sold only to accredited veterinarians.~~

a. Brucella vaccine shall be licensed by the United States Department of Agriculture.

(1) Vaccine shall be sold to and administered by veterinarians only.

(2) Vaccine shall be administered by the method and dosage described by the manufacturer.

~~b. Female dairy cattle two to six months of age (60-179 days) and female beef cattle two through seven months of age (60-239 days) may be vaccinated with approved Brucella abortus Strain 19 vaccine by accredited veterinarians.~~

b. Brucella vaccine may be administered to female dairy cattle two through five months of age (60-179 days) and female beef cattle two through seven months of age (60-239 days).

e. Cattle vaccinated must be identified by an official ear tag with the Minnesota prefix inserted in the right ear, tattoo, or other permanent identification and an official vaccination tattoo consisting of the U.S. Registered "Shield and V" preceded by the number indicating the quarter of the year and followed by the last digit of the year in which vaccinated.

c. Cattle vaccinated must be identified with an official Minnesota vaccination tag in the right ear and a vaccination tattoo in the right ear; if already identified with an ear tag or an individual registration tattoo, an official Minnesota vaccination tag is not required. The vaccination tattoo will include U.S. Registered "Shield and V," which will be preceded by a number indicating the quarter of the year and will be followed by a number corresponding to the last digit of the year vaccination was done.

(1) Official Minnesota vaccination tags shall be applied by the veterinarian or under his direct supervision only at the time the vaccination is conducted. Vaccination tags shall not be used for retagging.

(2) Cattle shall not be retattooed with the vaccination tattoo unless a veterinarian obtains a permit from the board. Permits may be issued if the cattle have the same identification as at time of vaccination and the vaccination report is on file at the office of the board.

d. Complete reports of vaccinations shall be submitted to the board within 14 days of the vaccination on forms supplied.

e. Cattle vaccinated with Brucella abortus Strain 19 vaccine other than females of authorized ages shall not be official vaccinates, but shall be quarantined and when tested diagnosed as unvaccinated cattle.

C. Area plan participation:

1. The ring test shall be conducted at least three times per year at approximately equal intervals.

a. Herds with suspicious ring tests are to be tested within 30 days.

~~2. The market cattle test shall cover at least 10 percent per year of the breeding cows over two years of age from herds not covered by the ring test.~~

2. The board may collect blood samples for the brucellosis test from breeding cattle two years of age and over at concentration points, locker plants, and slaughtering establishments.

a. Reactors must be traced to herd of origin and the herd tested within 30 days or quarantined for test within six months.

3. Community notification of Brucellosis Affected Herds.

a. The board may notify other owners and caretakers of cattle herds of an affected herd by means of an educational letter delivered through personal contact or by mail within 30 days of the issuance of the quarantine.

(1) The board may determine the size of the notification area.

(2) When the infected herd quarantine is released, the herd owners and caretakers shall also be notified within 30 days by an educational letter delivered through personal contact or by mail.

4. Adjacent herd and epidemiologically traced herd testing.

a. The board may demand tests on adjacent herds, or herds sharing common pasture, having other contact with the affected herd, or herds containing previous purchases from or exchanges with the affected herd. Such herds may be placed under quarantine until the test is completed.

b. The board may recommend a second test of herds described in a. above. If the second test is not made, the veterinarian shall document the reasons the herd was not tested and furnish the owner a copy of such document.

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PROPOSED RULES

D. Establishment and maintenance of Certified Brucellosis-Free Herds of cattle.

1. An agreement to comply with these rules shall be signed and filed with the board by the owner.

~~2. Certification: When at least two consecutive negative herd tests of all eligible cattle over 12 months of age are conducted not less than ten months or more than 14 months apart or when three consecutive negative ring tests conducted at 90 day intervals are followed by a negative herd blood test within 90 days of the last ring test, the herd will be certified for a period of one year (365 days) and a Certified Herd Certificate issued.~~

2. Certification. When at least two consecutive negative herd tests of all eligible cattle over six months of age are conducted not less than ten months or more than 14 months apart, the herd will be certified for a period of one year (365 days) and a Certified Herd Certificate issued.

a. Certification will be cancelled if:

(1) Additions to the herd are made contrary to the following paragraph, 3., of this Section, D., of this rule.

(2) If two or more reactors are disclosed in the herd.

(3) If only one reactor is disclosed, the certification is suspended until infected herd quarantine is released.

~~3. Additions to a Certified Herd shall be reported to the Board and be:~~

3. Additions to a Certified Herd.

~~a. From a Certified Brucellosis-Free Herd.~~

a. No test requirements for cattle originating from Certified Brucellosis-Free Herds. Cattle originating from Certified Brucellosis-Free areas shall pass a negative test within 30 days prior to addition to a herd. Cattle added to a Certified Brucellosis-Free Herd under this provision shall not receive new herd status for sale purposes until they have passed a 45-120 day post-entry retest.

~~b. From a herd which had a negative herd blood test within 12 months and the additions have had a negative retest not less than 60 days after the negative herd test and within 30 days of addition to the certified herd except official dairy vaccinates under 20 months of age and beef vaccinates under 24 months of age not parturient or post-parturient which may be added without test if with a certificate of official brucellosis vaccination.~~

b. Cattle originating from herds not under quarantine in Modified Certified Areas shall have passed a brucellosis test within 30 days prior to date of movement and then kept in isolation until they have passed a brucellosis retest made between 45 and 120 days after being moved. Cattle added to a Certified Brucellosis-Free Herd under this provision shall not receive new herd status for sale purposes until they have passed a 45-120 day post-entry retest.

~~e. From negative herds in Certified Free or Modified Certified Brucellosis-Free Areas the addition must have a negative or vaccinate status when tested within 30 days prior to entry and be segregated from the herd until retested and diagnosed negative or vaccinate on a test approximately 120 days after entry except official dairy vaccinates under 20 months of age and beef vaccinates under 24 months of age not parturient or post-parturient which may be added without test if with a certificate of official brucellosis vaccination and segregated from the herd until tested negative or vaccinate on the standard plate or tube test.~~

c. Cattle from Noncertified areas must originate from a herd which has passed a brucellosis test within 12 months and must have passed an additional test made at least 60 days after the herd test and within 30 days prior to movement and then kept in isolation until they have passed a brucellosis retest made between 45 and 120 days after being moved. Cattle added to a Certified Brucellosis-Free Herd under this provision shall not receive new herd status for sale purposes until they have passed the 45-120 day post-entry retest.

~~d. Cattle added under b. and e. above are not eligible for sale with certified herd status until in the herd at least 30 days and included on a negative complete herd test.~~

d. Non-test eligible vaccinated cattle, except cattle originating from a Certified Brucellosis-Free Herd must be kept isolated until they have passed a brucellosis test. Cattle added to a Certified Brucellosis-Free Herd under this provision shall not receive new-herd status until they have passed the 45-120 day post-entry test.

~~4. Recertification: A negative herd test on all cattle 24 months of age or over or post-parturient within 60 days prior to each anniversary of the certification date is required for continuous Certified Herd status. If the negative recertification test is conducted within 60 days following the anniversary date, the recertification is for 12 months from the anniversary date.~~

4. Recertification. All test eligible cattle in the herd over six months of age are required to pass a brucellosis test within 60 days prior to the anniversary date for continuous certification. If the certification test is conducted within 60 days following the anniversary date, the certification period will be 12 months from the anniversary date and not 12 months from the date of the recertifying test.

E. Sales of cattle and leasing or loaning cattle for breeding.

~~1. All dairy cattle over six months (209 days) of age and beef cattle eight months (240 days) of age and over must be tested negative or vaccinate for brucellosis within 30 days prior to sale or lease or loan except:~~

1. All dairy cattle over six months (209 days) of age and beef cattle eight months (240 days) of age and over must be tested negative for brucellosis within 30 days prior to sale or lease or loan except:

- a. Cattle sold directly to a slaughtering establishment for immediate slaughter.
- b. Cattle consigned to a public stockyards or state and federal approved markets.
- c. Steers and spayed heifers.
- d. Cattle from a certified brucellosis-free herd.
- e. Official dairy vaccinates under 20 months of age and beef vaccinates under 24 months of age not parturient or post-parturient.
- f. Female feeding ~~and grazing~~ cattle under 18 months of age of beef type and breed sold in accordance with Minn. Stat. § 35.245, subd. 3 (~~1974~~) (1978) providing:

(1) The purchaser furnishes the seller and board copies of complete affidavits as furnished by the board.

(2) The board may inspect the cattle and the premises on which they are maintained at any reasonable time.

(3) There are facilities to maintain said cattle separate and apart from all other cattle except steers, spayed heifers, or other quarantined feeding ~~and grazing~~ cattle. The facilities shall include double fencing where the cattle are confined in such a manner as to prevent access to other cattle in adjoining yards, pastures, or fields, and such fencing as may be necessary to prevent access of the quarantined cattle to water courses or drainage ditches which flow through or discharge on such other yards, pastures, or fields.

(4) The owner shall account to the board for all quarantined feeding ~~and grazing~~ cattle, reporting those sold directly for slaughter, those resold for feeding ~~and grazing~~ (with an affidavit), those tested with permission of the board for sale as breeding stock, those which died and those which were slaughtered for consumption by the owner.

(5) If at any time it is determined that the cattle are not maintained in accordance with the terms of the affidavit or the rules of the board, the owner shall immediately correct the facilities for segregation and employ a veterinarian, at owner's expense, to test all cattle which have associated with or have been exposed to the quarantined cattle.

2. The vendor of all cattle eligible for test sold, leased, or loaned, shall provide the purchaser or lessee a certificate with a record of a negative ~~or vaccinate~~ brucellosis test, and, for official vaccinates not eligible for test, a certificate of vaccination or evidence of a legible official vaccination tattoo. Certificates are to be provided at the time possession of the cattle is transferred.

a. For cattle offered for sale at a public auction, a complete certificate of test and vaccination shall be posted in a prominent place on the sale premises on a form provided by the board and shall include the number of suspects disclosed on the sale test and not offered for sale and a statement signed by the owner showing the number of reactors and suspects in the herd within six months prior to date of the sale test. Except for vaccinates not eligible for test and without a legible official vaccination tattoo, individual certificates are not required.

3. Dealer recordkeeping. Any dealer who purchases, deals in, or sells cattle; or who acts as a commission representative or broker; or who operates and conducts an auction where cattle are sold shall maintain records for a period of two years as outlined in this section.

a. The records shall be maintained on all cattle except calves six months of age and under, steers, spayed heifers, and female feeding cattle under 18 months of age of beef type and breed imported into Minnesota under special permit or sold in Minnesota under affidavit by:

(1) Individually identifying each animal.

(2) Showing the origin of each animal.

(3) Showing the destination of each animal.

(4) Showing the date of each transaction.

b. Dealers shall upon request furnish the board the origin and destination of any cattle handled by them when essential to determine the source and dissemination of disease.

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PROPOSED RULES

4. Any test eligible cattle sold, leased or loaned without a negative brucellosis test within 30 days prior to sale, leasing, or loaning shall be quarantined to the premises of the person that received the cattle.

a. The quarantine will be in effect until the cattle are tested for brucellosis at the expense of the vendor.

b. Cattle which do not pass the brucellosis test shall be shipped for slaughter or returned to the premises of the vendor by permit issued by the board.

c. The board may notify the vendor and the person receiving the cattle of the provisions of this section in person or by letter.

F. Complete herd condemnation, except steers, including nonreactors and exposed cattle not eligible for test:

1. The ~~Livestock Sanitary Board~~ Board of Animal Health through its Secretary and Executive Officer may condemn a complete herd, except steers, after having considered recommendations from the following:

a. Field veterinarian responsible for the herd.

b. State brucellosis epidemiologist.

c. Federal veterinarian in charge.

d. Veterinarian in Charge, Brucellosis Division, ~~Livestock Sanitary Board~~ Board of Animal Health.

2. The persons named in F.1. shall consider the following factors:

a. Rapidity of spread within the herd.

(1) Nonreactors and exposed cattle may be condemned after the first test of all eligible cattle in the herd when 25% or more of the cattle tested are reactors.

(2) Nonreactors and exposed cattle may be condemned when the cumulative number of reactors disclosed in the herd equals 30% of the number of cattle on the first test of all eligible cattle in the herd.

(3) Nonreactors and exposed cattle may be condemned when a herd remains infected after six tests conducted at approximately 30 day intervals.

b. Danger of transmission to other herds.

c. Results of culture attempts to isolate Brucella.

(1) A positive culture, other than Strain 19, shall support a decision to condemn but a negative culture does not prohibit herd condemnation.

d. Number and percent of abortions among reactors, suspects and negatives.

e. Supplemental test results.

f. Evaluation of management practices.

g. Vaccination history.

h. Epidemiologic investigation.

i. Status of area as determined by tests on contact herds and surveillance testing with MCT or BRT.

3. Nonreactors and exposed cattle shall not be condemned or appraised unless the owner signs an agreement which provides:

a. Owner and any other holder of an interest in the herd certifies such interest and voluntarily agrees to the condemnation of the herd.

b. All cattle, except steers, shall be condemned and appraised.

(1) Steers may be kept on the premises under quarantine in an area approved by the board.

c. No cattle, except steers, shall be brought to the premises, sooner than 30 days following shipment of the condemned herd.

d. Indemnity will be paid, if funds are available, as provided by Minn. Stat. § 35.09, subd. 2a ~~(1976)~~ (1978).

e. Nonreactors and exposed cattle will be identified, appraised and sold as outlined in B.4. of this rule.

f. Premises shall be cleaned and disinfected following shipment of nonreactors and exposed cattle as outlined in B.8. of this rule.

Rule as Proposed (all new material)

3 MCAR § 2.012 Control of anaplasmosis.

A. Definitions.

1. "Official anaplasmosis test"—a test for the diagnosis of anaplasmosis approved by the board and conducted in a United States Department of Agriculture (USDA) approved laboratory on samples submitted by an accredited veterinarian or a board-approved field test conducted by an accredited veterinarian.

B. General requirements.

1. Veterinarians shall report all cases of anaplasmosis they diagnose in cattle and all cases suspected of being anaplasmosis.
2. All anaplasmosis tests will be at owner's expense except tests conducted to release quarantines which may be made by veterinarians of the board or United States Department of Agriculture (USDA) if personnel and funds are available.
3. All cattle tested shall be individually identified by ear tag, tattoo, registration number or other identification which makes individual cattle readily identifiable and the identification entered on the test charts.
4. Quarantines will be established by the board, as authorized in Minn. Stat. § 35.05 (1978), on all cattle herds in which a clinical diagnosis or a laboratory diagnosis of anaplasmosis other than a diagnosis based only on serological tests is made. The quarantine will be served on the owner.
 - a. Quarantines on infected herds will be released:
 - (1) When the entire herd has been shipped for slaughter with a shipping permit or;
 - (2) When all cattle in the herd six months of age and over have been tested and are negative.
 - (3) On all cattle negative on two tests conducted at least 30 days apart if all cattle responding on the first test were segregated when the owner was notified of the response and shipped for slaughter with a shipping permit or retained and treated under veterinary supervision at owners expense.
5. Quarantines will be established on all cattle which have a positive response on any test for anaplasmosis. The quarantine will be served on the owner.
 - a. The quarantine will be released:
 - (1) When the responding animal is shipped for slaughter with a shipping permit.
 - (2) When the responding animal is tested and negative.
6. Vaccines for immunization of cattle for anaplasmosis are to be used only with prior permission of the board.

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Commerce Insurance Division

Adopted Rules Governing Self-insurance for Workers' Compensation

The proposed rules governing self-insurance for workers' compensation published at 4 S.R. 1410 (March 3, 1980) were adopted by the Commissioner of Insurance on June 10, 1980, and approved by the Attorney General on July 7, 1980, with the following amendments:

4 MCAR § 1.9287 Definitions.

F. "Modified premium" shall mean the total manual premium as defined in the Workers' Compensation Insurers Rating Association's manual of rules, classification, and rates approved for use in Minnesota, modified by an experience rating plan approved by the commissioner, pursuant to Minn. Stat. § 79.071.

I. "Workers' Compensation Service Company" shall mean an entity which has obtained a license from the Commissioner pursuant to 4 MCAR § 1.9294 to contract with self-insurers for the purpose of providing services necessary to plan and maintain an approved self-insurance program. An employer that has been granted the authority to self-insure pursuant to 4 MCAR § 1.9291 and administers its own self-insurance program shall be deemed a duly licensed workers' compensation service company for the purposes of servicing a self-insurance program of any affiliated company.

L. "Fund Year" for group self-insurers shall mean that period of time which the group self-insurer shall designate for the purposes of collecting premiums from its members and for determining any deficit or surplus; such period of time shall correspond with the fiscal year of the group. Any claim arising within the accident year upon which the fund year is based shall be included in that fund year.

P. "Classification" shall mean the manual classification as determined by the Workers' Compensation Insurers' Rating Association's manual of Rules, Rates and Classifications approved for use in Minnesota by the commissioner, pursuant to Minn. Stat. § 79.071.

4 MCAR § 1.9288 Acceptable Securities and Surety Bonds.

A. Acceptable securities and surety bonds for the purposes of 4 MCAR § 1.9291 G. and § 1.9292 H. shall be:

4 MCAR § 1.9289 Filing of Reports.

B. Each self-insurer shall under oath, attest to the accuracy of each report submitted pursuant to subdivision A. above. Upon sufficient cause, the commissioner ~~may~~ shall require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the Commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include, ~~but is not limited to,~~ the following factors: where the losses reported appear significantly different from similar type businesses, ~~or~~ where major changes in the reports exist from year to year which are not solely attributable to economic factors, or where the Commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner ~~may~~ shall require changes in the self-insurer's or workers' compensation service company record keeping practices. ~~Failure to make the necessary changes shall subject the self-insurer or service company to a fine of up to \$50,000 or revocation of the self-insurer's authority to self-insure, and the service company's license to act as a service company.~~

C. Each self-insurer shall report to the commissioner any workers' compensation claim where the full, undiscounted value is estimated to exceed \$50,000 within ten days of obtaining knowledge that the claim may exceed \$50,000.

F. In addition to the financial statements required by subdivisions D. and E. above, interim financial statements, or 100 Reports

required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including ~~but not limited to~~ a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer which files an 8K Report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within thirty (30) days of the filing with the Securities and Exchange Commission.

~~G. Any self-insurer that fails to file any report required by these rules within the time prescribed shall be subject to the same penalty as insurance companies for failure to file required reports pursuant to Minn. Stat. § 72A.061.~~

4 MCAR § 1.9290 Revocation of self-insurance authority. The following shall constitute grounds for revocation of the authority to self-insure:

B. Failure to comply with any lawful order of the commissioner;

D. A deterioration of financial condition adversely affecting the self-insurer's ability to pay expected losses, including ~~but not limited to~~, a worsening of the current ratio, a lessening of net worth, a net loss of income, or the failure of the self-insurer to meet the net worth standards of 4 MCAR § 1.9291 C. or § 1.9292 C.;

4 MCAR § 1.9291 Requirements for individual self-insurers.

G. Each individual self-insurer shall be required to deposit acceptable securities ~~of~~ or surety bonds in an amount equal in value to:

1. For an employer who has been self-insured for at least two (2) years and specifically identifies in its financial statement its outstanding workers' compensation liability the greater of:

- a. \$100,000 ~~of~~ or
- b. total outstanding workers' compensation liability not to exceed \$500,000.

2. For an employer who has been self-insured for at least two (2) years and does not specify in its financial statement its outstanding workers' compensation liability either:

- a. ~~\$100,000,000~~, \$1,000,000 or
- b. total outstanding workers' compensation liability if certified by an actuary who is an associate member of the Casualty Actuarial Society, provided that the deposit shall be at least \$100,000.

3. For an employer who has been self-insured less than two (2) years and has specifically identified in its financial statement its outstanding workers' compensation liability the greater of:

- a. \$100,000 or
- b. 70% of the employers' estimated current modified premium, or
- c. outstanding workers' compensation liability, not to exceed \$500,000.

4. For an employer who has been self-insured for less than two (2) years and ~~do~~ does not specify in its financial statement its outstanding workers' compensation liability the greater of:

- a. \$100,000
- b. 70% of the employers' estimated current modified premium, or
- c. outstanding workers' compensation liability, not to exceed \$1,000,000.

J. Each individual self-insurer shall designate those employees who will administer its self-insurance program, and shall specify their qualifications to engage in the administration of the self-insurance program. If a self-insurer contracts with another entity for the administration of its program, including adjustment of claims, or administration of loss control or safety engineering programs, the self-insurer shall only contract with a workers' compensation service company duly licensed for those specific areas of program administration.

L. Any employer whose workers' compensation liability has been guaranteed by the Federal Government shall not be required to file a certified financial statement pursuant to subdivision B. of this rule, provided that on termination of any such guarantee the employer's authority to self-insure shall be void.

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ADOPTED RULES

4 MCAR § 1.9292 Requirements for group self-insurers.

B. After the initial application along with the bylaws or plan of operation have been approved by the commissioner, or at the time of the initial application, the group shall then submit: the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group as set forth in Appendix II signed by an officer of each member; and a certified financial statement of each member.

C. A group proposing to self-insure shall have and maintain:

1. A combined net worth of all of the members ~~is~~ of at least equal to the greater of ten (10) times the retention selected with the WCRA or one-third ($\frac{1}{3}$) of the current annual modified premium of the members. The requirements of this subdivision shall be modified if the self-insurer can demonstrate that through excess insurance, other than coverage provided by the WCRA, that it can pay expected losses.

2. Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under the Workers' Compensation Act. In determining whether a group is in sound financial condition, consideration shall be given to: the combined net worth of the member companies; ~~the combined net worth of the member companies;~~ the consolidated long-term and short-term debt to equity ratios of the member companies; the particular industry that the member companies are engaged in; any excess insurance other than reinsurance with the WCRA, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four (4) years.

D. Two or more employers shall be deemed to be engaged in the same industry under Minn. Stat. § 176.181, subd. 2(1) if the commissioner finds that all of the employers have the same group classification as defined in the Classification Codes Manual for Workers' Compensation and Employers' Liability Insurance published by the National Council of Compensation Insurance issued on December 31, 1934 as revised on August 1, 1979. When two or more employers are not in the same group classification they shall still be considered in the same industry under these rules if:

1. a majority of the employees of each employer perform similar work;
2. a majority of the employees of each employer are subjected to similar work hazards; and
3. the manual rate for the governing classification of each employer is similar.

E. The commissioner shall grant or deny the group's application to self-insure within thirty (30) days after a complete application has been filed, provided that such time may be extended for an additional thirty (30) days upon fifteen (15) days prior notice to the applicant. Upon a determination that: the financial ability of the self-insurer's group is sufficient to fulfill all joint and several obligations of the member companies which may arise under the Workers' Compensation Act; the gross annual premium of the group members is at least three hundred thousand dollars (\$300,000.00); the group has established a fund pursuant to 4 MCAR § 1.9293; the group has contracted with a licensed workers' compensation service company to administer its program; the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member; and all of the member companies are engaged in the same industry; the commissioner shall grant approval for self-insurance. Such approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

F. Each group self-insurer shall contract with a workers' compensation service company licensed pursuant to 4 MCAR § 1.9294 to administer its program or employ such personnel that will qualify the group as a licensed workers' compensation service company. The service company shall have the sole authority to make claim and reserve determinations regarding injured workers of the member employers.

I. An employer must belong to the group for at least one year. If a member voluntarily terminates its membership in a group during the second or third year of membership, the group self-insurer shall assess the terminating member at least the following penalties: 25% of the premium due from that member for that year if termination occurs within the second year of membership and 15% of the premium due from that member for that year if termination occurs within the third year. No penalty shall be required if an employer's withdrawal is due to merger, dissolution, sale of the company or change in the type of business so that it is no longer engaged in the same industry as the rest of the employers of the group. Following the completion of three consecutive years of membership in the group, withdrawal from the group ~~may~~ shall be allowed without penalty provided ninety (90) days advance written notice is given to the board of directors of the group, and that the group's plan of operation or bylaws allow such withdrawal without a penalty. Any penalty assessed pursuant to this subdivision shall be paid to the group's self-insurer's fund.

M. The directors of each group self-insurer shall cause to be adopted a set of bylaws or plan of operation which shall govern the operation of the group. All bylaws or plans of operation or amendments thereto, shall be subject to prior approval by the commissioner, pursuant to 4 MCAR § 1.9292 A.

1. These bylaws or plans of operation shall contain; ~~but not be limited to;~~ the following subjects:

- a. Qualifications for group self-insurer membership, including underwriting considerations.
- b. The method for selecting the board of directors, including the director's terms of office.
- c. The procedure for amending the bylaws or plan of operation.
- d. Investment of all assets of the fund.
- e. Frequency and extent of loss control or safety engineering services provided to members.
- f. A schedule for payment and collection of premiums.
- g. Expulsion procedures, including expulsion for nonpayment of premiums and expulsion for excessive losses.
- h. Delineation of authority granted to the administrator.
- i. Delineation of authority granted to the service company.
- j. Basis for determining premium contributions by members including any experience rating program.
- k. Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.
- l. Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.

4 MCAR § 1.9293 Group self-insurer's fund.

A. Each group self-insurer shall, not less than ten (10) days prior to the proposed effective date of the group, submit evidence that cash premiums equal to not less than twenty percent (20%) of the current year's modified workers' compensation insurance premium reduced by any appropriate premium discount for each employer, has been paid into a common claims fund, maintained by the group in a designated depository. The remaining balance of the member's premium, which shall be at least the current year's modified workers' compensation insurance premium reduced by any appropriate premium discount less the initial cash premium, shall be paid to the group in a reasonable manner over the remainder of the year. Payments in subsequent years shall be made according to the schedule in the manual of Rules, Classifications and Rates approved for use in Minnesota provided that a reduction in the manual premium shall be allowed if based on bonafide savings in the expenses of the group, or an actuary who is a member of the Casualty Actuarial Society certifies that a reduction should be permitted based on the losses of the group and that a deficit has not occurred in any of the last three years. Each group self-insurer shall initiate proceedings against a member when that member becomes more than fifteen (15) days delinquent in any payment of premium to the fund.

E. The accounts and records of the group self-insurer's fund shall be audited annually. Audits shall be made by Certified Public Accountants ~~with the commissioner reserving the right to prescribe a uniform accounting system~~ based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of the future contingent liabilities, to be used by the group self-insurers or service companies, and the type of audits to be made, in order to determine the solvency of the self-insurer's fund. All audits required by this rule shall be filed with the commissioner ninety (90) days after the close of the fiscal year for the group self-insurer. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question.

M. If the commissioner finds that any deficit has not been paid up, he ~~may~~ shall order an assessment to be levied against the members of a group self-insurer sufficient to make up any deficit.

4 MCAR § 1.9294 Qualification for workers' compensation service companies.

A. Any person or entity desiring to be licensed as a workers' compensation service company shall apply to the commissioner on forms available from the commissioner. The license shall designate areas of administrative services which the service company shall be authorized to perform. Any license granted shall be effective for a period of two (2) years unless revoked by order of the commissioner.

B. In support of the application, a workers' compensation service company shall submit:

1. Summary information concerning its organization and staff.
2. Detailed resumes of all employees, or employees of any subcontractor, with administrative or professional capacity. Such resumes shall indicate the areas of administration in which each employee shall work and the qualifications and experience of the employee relating to that area.

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3. A description of the administrative services intended to be provided.
 4. The identity of the owners of the service company, including ~~but not limited to~~, all members of a partnership and all officers of a corporation.
- C. The application shall be accompanied by a certification that the applicant has employed or has contracted with competent individuals to provide those services intended to be provided to self-insurers.
- D. If the workers' compensation service company intends to provide claims adjusting, the service company or its subcontractor shall have supervisory personnel who possess at least three (3) years' experience adjusting workers' compensation claims. Further, the workers' compensation service company or subcontractor shall have at least one adjuster who holds a license under Minn. Stat. ch. 72B and shall be situated within the State of Minnesota.
- E. The workers' compensation service company shall have within the State of Minnesota an employee who is able to act as a resident agent, authorized to act in all matters concerning the service company.
- F. The workers' compensation service company shall have employed or retained experienced accountants when necessary to the providing of the administrative services to a self-insurer, when the prospective self-insurer does not provide such expertise.
- G. The commissioner shall grant or deny the license within thirty (30) days after a complete application has been filed showing compliance with subdivision A. through F. above. However, if any applicant, an affiliated company of the applicant, or owner or officer of the applicant entity who the commissioner has reason to believe has committed an act or practice in connection with the administration of claims which is defined as unfair or deceptive in Minn. Stat. § 72A.20, the applicant shall be denied a license under this rule. Any applicant who is denied a license pursuant to this subdivision may within thirty (30) days after denial by the commissioner demand a hearing pursuant to Minn. Stat. ch. 15. The commissioner shall have the burden of proof at any such hearing to prove that the applicant has committed such a practice.
- H. Any records of a workers' compensation service company relating to any of the services offered or provided to any self-insurer shall be open to inspection by the commissioner during normal business hours.
- I. Each workers' compensation service company may be investigated by the commissioner upon reasonable belief that the service company is not in compliance with 4 MCAR §§ 1.9285 to 1.9294 or is improperly administering workers' compensation claims pursuant to the Workers' Compensation Act. If the commissioner determines that the service company is not in compliance with 4 MCAR §§ 1.9285 to 1.9294 or the Workers' Compensation Act, the service company shall be liable for the cost of the investigation.
- J. Revocation of any workers' compensation service company license shall be pursuant to the contested case procedure in Minn. Stat. ch. 15.
- K. ~~Good cause~~ Grounds for revocation of the workers' compensation service company license shall be, ~~but not limited to, the following factors:~~
1. ~~Improper claims handling techniques~~ Maintenance of inadequate loss reserves.
 2. ~~Material~~ Violation of any of the foregoing rules.
 3. ~~Material~~ Violation of any provision of the Workers' Compensation Act.
 4. Committing an unfair or deceptive act or practice as defined in Minn. Stat. § 72A.20.
- L. Each workers' compensation service company shall be expected to file, or attempt to ensure that the self-insurers it services file, all required reports relating to those services which they provide by the dates established by statute or by these rules. Such reports shall include, ~~but are not limited to~~, the following: loss information reports required by 4 MCAR § 1.9289, reports required by the WCRA, and any report required by the Minnesota Department of Labor and Industry.
- M. Each workers' compensation service company shall report to the commissioner the termination of any service contract entered into with a self-insurer within ten (10) days of such termination.

Department of Education State Board of Education Special Services Division

Adopted Rules Relating to Renumbering; and Repeal of EDU 641 Veterans' Refund Policy

Adoption of the proposed rules governing Education Computer Systems is being delayed because the rules are not in conformance with the statutory changes enacted by the 1980 Legislature.

The rules relating to the repeal of EDU 641 Veterans' Refund Policy and the renumbering of the remaining sections have been adopted and are identical to the proposed form as published at (State Register), Volume 4, Number 15, p. 577, October 15, 1979 (4 S.R. 573-577).

Department of Natural Resources

Waters Division

Adopted Rules for Appropriation of Waters of the State

The rules proposed and published at *State Register*, Volume 4, Number 21, pp. 854-867, November 26, 1979 (4 S.R. 854) are adopted with the following amendments:

Rules as Adopted

6 MCAR § 1.5050 General provisions.

A. Statement of policy. The purpose of these rules is to provide for the orderly and consistent review of permit applications for appropriation and use of waters of the state in order to conserve and utilize the water resources of the state in the public interest. In the application of these rules, the Department of Natural Resources shall be guided by the policies and requirements declared in Minn. Stat. ch. 105 and 116 D.

Any appropriation must be consistent with laws and rules of federal, state and local governments.

B. Scope. these rules set forth minimum standards and criteria pertaining to the regulation, conservation and allocation of the water resources of the state, including the review, issuance and denial of water appropriation applications and the modification, suspension or termination of existing permits.

Further provisions for the administration of these rules are found in Minn. Stat. ch. 105. Permits for water appropriation for mining shall be in agreement with provisions of Minn. Stat. § 105.64.

C. Jurisdiction. Permits shall be required for, and these rules shall apply to, any appropriation of waters of the state, except for the following:

1. Appropriation of water for domestic uses serving less than 25 persons for general residential purposes.
2. Test pumping of a ground water source.
3. Withdrawal for any use at a rate not to exceed 10,000 gallons per day and totaling no more than 1 million gallons per year.
4. Agricultural field tile or open ditch drainage systems, including pumping, to remove water from crop lands. This shall not preclude the need for compliance with Minn. Stat. ch. 106 and for permits for changes in course, current or cross-section of public waters in the event that the agricultural drainage system adversely affects public waters. Adverse effects on public waters may include partial or complete drainage of public waters, high water or flooding conditions on surrounding lands and accelerated erosion and sedimentation.

5. Reuse and discharge of ~~of waste~~ waters resulting from an appropriation of waters of the state for which a permit has been granted. ~~The reuse of waste waters shall be~~ subject to applicable laws, and rules of other ~~governmental agencies~~ state and federal governmental agencies.

D. Definitions. For the purpose of these regulations, the terms or words defined in this section have the meanings given therein, except where the context clearly indicates otherwise. The word "shall" is mandatory, not permissive.

"Aquifer" means any water bearing bed or stratum of earth or rock capable of yielding ground water in sufficient quantities that can be extracted.

"Appropriation" shall have the meaning prescribed in Minn. Stat. § 105.37, subd. 5, "Appropriation includes but is not limited to taking, regardless of the use to which the water is put."

"Artesian aquifer" or "confined aquifer" means a water body or aquifer overlain by a layer of material of less permeability than the aquifer. The water is under sufficient pressure so that when it is penetrated by a well, the water will rise above the top of the aquifer. A flowing artesian condition exists when the water flow is at or above the land surface.

"Basin" means a depression capable of containing water which may be filled or partly filled with waters of the state. It may be a natural, altered or artificial depression.

"Commissioner" refers to the Commissioner of the Department of Natural Resources or the Commissioner's authorized representative.

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“Consumptive use” or “consumption” refers to water withdrawn and not directly returned to the same waters as the source for immediate further use in the area.

“Division” means the Division of Waters, Department of Natural Resources.

“Domestic use” means use for general household purposes for human needs such as cooking, cleaning, drinking, washing and waste disposal and uses for on-farm livestock watering excluding commercial livestock operations which use more than 10,000 gallons per day and 1 million gallons per year.

“Dug pit” means an artificial excavation such as sump, trench, pond, water hole or other basin constructed for the purpose of intercepting and capturing surface and ground water, and often involving ground water under water table or unconfined conditions.

“Ground water” means subsurface water in the saturated zone. The saturated zone may contain water under atmospheric pressure (water table condition), or greater than atmospheric pressure (artesian condition).

“Protected flow” is defined as the amount of water required in the watercourse to accommodate instream needs such as water-based recreation, navigation, aesthetics, fish and wildlife habitat, water quality and needs by downstream higher priority users located in reasonable proximity to the site of appropriation.

“Protection elevation” is defined as the water level of the basin necessary to maintain fish and wildlife habitat, existing uses of the surface of the basin by the public and riparian landowners, and other values which must be preserved in the public interest.

“Public water supply” refers to the various supplies of water used primarily for domestic supply purposes and obtained from a source or sources by a municipality, a water district, a person or corporation where water is delivered through a common distribution system, as further defined in Minn. Stat. § 144.382, subd. 4.

“Safe yield for water table condition” means the amount of ground water that can be withdrawn from an aquifer system without degrading the quality of water in the aquifer and without allowing the long term average withdrawal to exceed the available long term average recharge to the aquifer system based on representative climatic conditions.

“Safe yield for artesian condition” means the amount of ground water than can be withdrawn from an aquifer system without degrading the quality of water in the aquifer and without the progressive decline in water pressures and levels to a degree which will result in a change from artesian condition to water table condition.

“Water table aquifer” or “unconfined aquifer” means an aquifer where ground water is under atmospheric pressure.

“Waters of the state” means any waters, surface or underground, except those surface waters which are not confined but are spread and diffused over the land. “Waters of the state” includes all boundary and inland waters (Minn. Stat. § 105.37, subd. 7)

“Watercourse” means any natural, altered or artificial channel having definable beds and banks capable of conducting confined runoff from adjacent lands (Minn. Stat. § 105.37, subs. 10, 11 and 12).

“Well” means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed where the intended use is for the location, diversion, or acquisition of ground waters (Minn. Stat. § 156A.02, subd. 1).

E. Coordination with other agencies. Nothing in these rules is intended to supersede or rescind the laws, rules, regulations, standards, and criteria of other international, federal, state, regional, or local governmental subdivisions with the authority to regulate the appropriation of waters of the state. The issuance of a permit shall not confer upon the applicant the approval of any other unit of government for the proposed project. The department shall coordinate the review of permit applications with other units of government having jurisdiction in such matters.

~~F.~~ Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof, shall not make void any other paragraph, subparagraph, subdivision or any other part.

6 MCAR § 1.5051 General requirements for applying for permits.

A. Application forms required.

1. Applications shall be submitted for each surface or ground water source from which water is proposed to be appropriated. A separate application shall be required for the following:

- a. For each distribution system if the water is used in more than one common distribution system.
- b. For each well(s) completed in different aquifers if ground water is to be appropriated from separate wells completed in more than one aquifer.
- c. For each basin or watercourse involved if surface water is to be appropriated from several different basins or watercourses.

2. The applicant must provide written evidence of ownership, or control of, or a license to use the land overlying the ground water source or abutting the surface water source from which water will be appropriated.

B. Applicant responsibilities. All applicants shall submit the following information when it is reasonably available. Additional submittals may be required as prescribed in 6 MCAR § 1.5053 and where deemed necessary by the commissioner in order to adequately evaluate the applications:

1. A completed application on forms supplied by the commissioner.
2. The required application fee (Minn. Stat. § 105.44, subd. 10).
3. Aerial photographs, maps, sketches, detailed plat, topographic maps or other descriptive data sufficient to show:
 - a. The location of the area of use.
 - b. The outline of the property owned, or controlled by the applicant in proximity to the area of use.
 - c. The location of the proposed point of appropriation such as well(s) location, stream bank pump(s) or the location of other facilities for appropriation of water.
 - d. If ground water is involved, the location of test hole borings which have been drilled on the property from which the appropriation will be made.
4. Signed statement that copies of the application and accompanying documents have been sent to governmental units as required by Minn. Stat. § 105.44, subd. 4. the mayor of the city, secretary of the board of soil and water conservation district or the manager of a watershed district if the proposed project is within or affects a watershed district or soil and water conservation district or a city.
5. Statement of justification supporting the reasonableness and practicality of use in respect to adequacy of the water source, amounts of use and purpose, including available facts on:
 - a. Hydrology and hydraulics of the water resources involved, including, for surface waters, the applicant's analysis of the effect of proposed withdrawals on levels and flows and anticipated impacts, if any, on instream flow or lake level conditions to the extent that such facts are not already available to the commissioner.
 - b. Proposed pumping schedule including rates, times and duration.
 - c. Amounts of water to be appropriated on a maximum daily, monthly and annual basis.
 - d. Means, methods and techniques of appropriation.
 - e. Alternative sources of water or methods which were considered, to attain the appropriation objective and why the particular alternative proposed in the application was selected.
6. Information on any water storage facilities and capacities and any proposed reuse and conservation practices.
7. Application for use of surface water shall include the following additional data:
 - a. A contingency plan which describes the alternatives the applicant will utilize if at any time appropriation is restricted to meet instream flow needs or to protect the level of a basin. The contingency plan shall be feasible, reasonable and practical, otherwise the applicant shall submit a notarized as part of the application written statement agreeing in such case to withstand the results of no appropriation (Minn. Stat. § 105.417, subd. 5).
 - b. For appropriation from natural basins or natural watercourses, facts to show that reasonable alternatives for appropriating water have been considered including use of water appropriated during high flows and levels and stored for later use and the use of ground water.
 - c. For basins less than 500 acres in surface area the applicant shall:
 - (1) Notify all riparian landowners and provide the commissioner with a list of all landowners notified.
 - (2) Attempt to obtain a signed statement from as many riparian landowners as the applicant is able to obtain stating their support to the proposed appropriation; and
 - (3) Provide an accounting of number of signatures of riparian owners the applicant is unable to obtain (Minn. Stat. § 105.417, subd. 3(c)).
8. Application for use of ground water, except for agricultural irrigation (6 MCAR § 1.5053A) shall include the following data:
 - a. Test hole logs (if any) and water well record(s);

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b. Hydrologic test data; and ~~or~~

c. Hydrologic studies, if the above data are insufficient to allow the commissioner to properly assess the capability of the aquifer system in the area of withdrawal or are inadequate to allow assessment of the effects of the proposed appropriation on the water resource and on nearby wells.

C. Waiver of requirements. Whenever information required by 6 MCAR §§ 1.5051 and 1.5053 are unnecessary or inapplicable the commissioner shall waive those requirements.

6 MCAR § 1.5052 Commissioner's actions on permit applications. Upon receipt of the information required from the applicant under 6 MCAR §§ 1.5051 and 1.5053, where applicable, the commissioner shall take action on the application as follows:

A. Review and analysis of data.

1. The commissioner shall consider the following factors, as applicable:

a. The location and nature of the area involved and the type of appropriation and its impact on the availability, distribution and condition of water and related land resources in the area involved.

b. The hydrology and hydraulics of the water resources involved and the capability of the resources to sustain the proposed appropriation based on existing and probable future use.

c. The probable effects on the environment including anticipated changes in the resources, unavoidable detrimental effects and alternatives to the proposed appropriation.

d. The relationship, consistency and compliance with existing federal, state and local laws, rules, ~~and~~ legal requirements and water management plans.

e. The public health, safety and welfare served or impacted by the proposed appropriation.

f. The quantity, quality and timing of any waters returned after use and the impact on the receiving waters involved.

g. The efficiency of use and intended application of water conservation practices.

h. The comments of local and regional units of government, federal and state agencies, private persons and other affected or interested parties.

i. The adequacy of state water resources availability when diversions of any waters of the state to any place outside of the state are proposed.

j. The economic benefits of the proposed appropriation based on supporting data when supplied by the applicant.

2. The commissioner shall further consider the following factors for appropriation from watercourses:

a. Historic streamflow records, and where streamflow records are not available, estimates based on available information on the watershed, climatic factors, runoff and other pertinent data.

b. Physical characteristics such as discharge, depth and temperature and an analysis of the hydrologic characteristics of the watershed.

c. Aquatic system of the watercourse, riparian vegetation and existing fish and wildlife management within the watercourse.

d. Frequency of occurrence of high and low flows.

e. Feasibility and practicability of off-stream storage of high flows for use in providing water supply during periods of normal low flows, when supply is limited by existing and anticipated use.

~~f. Existing federal, state, regional and local water management plans.~~

~~g. Impact of the appropriation on the public interest.~~

3. The commissioner shall further consider the following factors for appropriation from basins:

a. Total volume of water within the basin.

b. Slope of the littoral zone.

c. Available facts on historic water levels of the basin and other relevant hydrologic factors.

d. Cumulative long-range ecological effects of the proposed appropriation.

~~e. Impact of the appropriation on the public interest.~~

~~e. f.~~ Natural and artificial controls which affect the water levels of the basin.

4. The commissioner shall further consider the following factors for appropriation of ground water:
 - a. Type and thickness of the aquifer.
 - b. ~~Limit~~ Subsurface area of the aquifer.
 - c. Area of influence of the proposed well(s).
 - d. Existing water levels in the aquifer and projected water levels due to the proposed appropriation.
 - e. Other hydrologic and hydraulic characteristics of the aquifer involved.
 - f. Probable interference with neighboring wells.

B. Decision on applications. The commissioner is authorized to grant permits, with or without conditions, or deny them. In all cases, the applicant, the managers of the watershed district, the board of supervisors of the soil and water conservation district, or the mayor of the city may demand a hearing in the manner specified in Minn. Stat. § 105.44, subd. 3, within 30 days after receiving mailed notice outlining the reasons for denying or modifying an application.

Decisions by the commissioner are further subject to the administrative provisions of Minn. Stat. §§ 105.44-105.463 and § 105.64. These sections include information and requirements on procedure, authority, timing of actions, fees, notice, investigations, violations and penalties and special provisions regarding mining operations.

Based on these statutory requirements and other applicable provisions of Minn. Stat. ch. 105 the commissioner shall make decisions as follows:

1. No permit shall be granted if:

a. For application involving diversion of any waters of the state, surface or ground water, to a place outside the state, the remaining waters in the state will not be adequate to meet the state water resources needs during the specified life of the diversion (Minn. Stat. § 105.405, subd. 2).

b. ~~There are inadequate supplies of waters of the state for the purpose intended, in the area involved.~~ There is no conflict between competing users but the quantity of available waters of the state, in the area involved, are inadequate to provide the amounts of water proposed to be appropriated.

c. The appropriation is not reasonable, practical, and does not adequately protect public safety and promote the public welfare (Minn. Stat. § 105.45).

d. The appropriation is not consistent with approved state, regional and local water and related land resources management plans, provided that regional and local plans are consistent with statewide plans (Minn. Stat. § 105.41, subd. 1a.).

e. There is an unresolved conflict between competing users for the waters involved and the conflict has not been resolved pursuant to provision of 6 MCAR § 1.5055.

2. Approval of any surface water appropriation application shall be further subject to the following:

a. For all watercourses, proposals for appropriation during periods of flood flows and high water levels shall be given first consideration unless this is not practical, reasonable or feasible (Minn. Stat. § 105.41, subd. 1a).

b. For natural and altered watercourses, except for drainage ditches established under Minn. Stat. ch. 106, consumptive appropriation may be limited consistent with Minn. Stat. § 105.417, subd. 2, provided that adequate data are available to set such limits for watercourses. Where protected flow is designated by the commissioner, no appropriation shall be allowed when the flow is below that protected flow.

c. Permits to appropriate water for any purpose from streams designated trout streams by commissioner's order, pursuant to Minn. Stat. § 101.42, shall be limited to temporary appropriations when not in conflict with the special designation, such as during periods of high flows or high water levels (Minn. Stat. § 105.417, subd. 4).

d. For natural and altered basins the commissioner shall:

(1) Establish a protection elevation below which no appropriation shall be allowed (Minn. Stat. § 105.417, subd. 3(b)).

(2) Limit the collective maximum annual withdrawals to not exceed a total volume of water amounting to one-half acre-foot per acre of surface water basin based on Minnesota Department of Natural Resources Bulletin No. 25, "An Inventory of

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Minnesota Lakes.' The actual collective annual allocation may be considerably less than the maximum. This limitation is as provided by Minn. Stat. § 105.417, subd. 3(a).

(3) For natural and altered basins less than 500 acres, an application shall not be approved if the commissioner determines that the proposed appropriation would lower the water levels in the basin to an extent which would deprive the public and riparian property owners of reasonable use of and access to the water.

e. The establishment of protected elevation and limitation on maximum withdrawals contained in sections d.(1). and d.(2). above shall not apply to artificial and altered basins constructed primarily for the purpose of storing high waters and flood flows as water conservation contingency flow alternatives when such alternatives are approved by the commissioner.

f. Protected flows of watercourses and protection elevations of basins shall be established for the purposes as defined in 6 MCAR § 1.5050 D. and shall be based on available information considered in 6 MCAR § 1.5052 A.2. and A.3. For new applications the proposed establishment of protected flows or protection elevations shall be part of the permit process outlined in 6 MCAR § 1.5052 B. including opportunity for public hearing. Existing permittees who will be affected by the proposed establishment of protected flows or protection elevations shall be notified of such proposals and shall be provided opportunity for public hearing before modification of their permits based on the procedures outlined in 6 MCAR § 1.5056 D.1.b.

Upon the submission of data set forth in 6 MCAR § 1.5052 A.2. or A.3. for a specified watercourse segment or basin by a state agency agreeing to pay the costs of any necessary public hearings, the commissioner shall establish requested protected flows and elevations.

3. Approval of appropriation from ground water shall be further subject to the following:

a. The amounts and timing of water appropriated shall be limited to the safe yield of the aquifer to the maximum extent feasible and practical. ~~Safe yield means the amount of ground water that can be withdrawn from an aquifer system without degrading the quality of water in the aquifer and without allowing the long term average withdrawal to exceed the available long term average recharge to the aquifer system based on representative climatic conditions.~~

~~b. If the commissioner determines that the proposed appropriation of ground water would result in reduction of flows in a watercourse below a protected flow or levels in a basin below a protected elevation, the amount and timing of the water appropriation shall be limited so it does not affect the protected flow or elevation.~~

b. If the commissioner determines, based on substantial evidence, that a direct relationship of ground and surface waters exists such that there would be adverse impact on the surface waters through reduction of flows or levels below protected flows or protection elevations the amount and timing of the proposed appropriation from ground water shall be limited.

c. Appropriation of ground water shall not be approved or shall be issued on a conditional basis in those instances where sufficient hydrologic data are not available to allow the commissioner to adequately determine the effects of the proposed appropriation. If a conditional appropriation is allowed, the commissioner shall make further approval, modification or denial when sufficient hydrologic data are available.

d. The commissioner shall limit the use of dug pits for appropriating water when such pits are so located that they may reasonably be expected to affect protected flows of watercourses or protected elevations of basins.

C. Waiver of requirements. The commissioner ~~may~~ shall waive any of the provisions of 6 MCAR § 1.5052 B. if it is determined that conditions are such that implementation of a provision would be unnecessary or inapplicable or if an applicant provides sufficient evidence to show just cause why such provision would not be reasonable, practical or in the public interest. In the event the commissioner does not grant an applicant's request for waiver the applicant may demand a hearing.

D. Specific types of appropriation and use. Additional requirements and decisions governing ~~specific types of uses such as~~ agricultural irrigation, public water supplies, dewatering, water level maintenance and mining are also contained in 6 MCAR § 1.5053.

6 MCAR § 1.5053 Special additional requirements and conditions for certain specific types of appropriation.

A. Agricultural irrigation including use of water for wild rice paddies.

1. For ground water appropriation, the applicant must submit to the commissioner the following data in addition to the requirements of 6 MCAR § 1.5051:

a. If the application is for use of ground water from an aquifer system for which adequate ground water availability data are available and therefore is designated by the commissioner as a Class A application, (Minn. Stat. § 105.416, subd. 1):

(1) Copies of test hole log(s) to identify the aquifer the proposed well will penetrate.

(2) Copies of the water well record(s) and production test data.

(3) Additional aquifer test data as may be required by the commissioner if the test holes, water well records and

production test data are insufficient to allow the commissioner to properly assess the capability of the aquifer system in the area of withdrawal, or are inadequate to allow assessment of the effects of the proposed appropriation on other nearby wells.

b. If the application is for use of ground water from an aquifer system for which inadequate ground water availability data are available and therefore is designated by the commissioner as a Class B application, (Minn. Stat. § 105.416, subd. 1) the applicant shall supply the following additional information as required by Minn. Stat. § 105.416, subd. 2 including:

- (1) Copies of test hole log(s) to identify the aquifer the proposed well will penetrate.
- (2) Copies of water well record(s) and production test data.
- (3) The anticipated ground water quality in terms of the measures of quality commonly specified for the proposed water use, when existing data indicate the water supply is not suitable for irrigation.
- (4) The location of each domestic well, for which information is readily available, located within the area of influence or within 1½ mile radius of the proposed irrigation well, whichever is less.
- (5) Readily available information from water well records, reports, studies and field measurements regarding the domestic wells within the area of influence or a 1½ mile radius of the proposed irrigation well whichever is less, such as:
 - (a) owner's name, address and phone number.
 - (b) depth of well (in feet).
 - (c) diameter of well and casing type (concrete curb, steel, wooden, clay tile, etc).
 - (d) non-pumping water level (in feet) below land surface.
 - (e) age of well (when constructed).
 - (f) type of pump (shallow-jet, deep well jet, submersible reciprocating, etc.) and rate of discharge.
 - (g) length of drop pipe in well.
- (6) Results of a pumping test of the aquifer system as required in Minn. Stat. § 105.416, subd. 2.(e).
- (7) The commissioner ~~may~~ shall in any specific application, waive any of the requirements of 6 MCAR § 1.5053A.1.b.(1). - (6)., when the necessary data are already available, as required in Minn. Stat. § 105.416, subd. 2.

2. The commissioner's actions.

a. The commissioner shall analyze and evaluate applications based on facts supplied by the applicant pursuant to 6 MCAR §§ 1.5051 and 1.5053 A.1. Decisions shall be subject to the applicable procedures outlined in 6 MCAR § 1.5052 and based on recommendations of the soil and water conservation district, soil surveys and other available data on soil characteristics relating to soil suitability for agricultural irrigation and adequacy of existing or proposed soil and water conservation measures in order to protect water quality and prevent erosion and sedimentation.

b. The commissioner shall determine the amount of water allowed to be used under 6 MCAR § 1.5053 A.2.a. based on:

- (1) Acreage of lands involved.
- (2) Climatic characteristics of the area involved.
- (3) Dominant soil types of the acreage to be irrigated and major crops to be irrigated.
- (4) Best available technology, methodology and crop-water use requirement information including, but not limited to, "Irrigation Guide for Minnesota," Soil Conservation Service, U.S. Department of Agriculture, St. Paul, Minnesota, 1976.
- (5) When adequate data on soil moisture and local climatic conditions are available for the area, the commissioner may prescribe a limitation on the amounts and timing of appropriation during each season in cooperation with irrigators and agricultural experts establish an irrigation scheduling system to provide for improved conservation of water.
- (6) For irrigation from surface water, where stream flow or lake level records are unavailable or when available records indicate that flows or levels during the irrigation season would be inadequate, if all potential riparian landowners would use the water for irrigation, the amount of appropriation shall be limited to no more than one-half acre-foot per acre of riparian land owned or controlled by the applicant except for appropriation for wild rice paddies as is provided in (7). Riparian lands for the purpose of these rules shall be those 40 acre tracts or government lots, or portions thereof, that directly abut a basin or watercourse. This provision shall apply until a protected flow or protection elevation has been established in accordance with 6 MCAR § 1.5052 B.2. and 3.

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(7) The amount of appropriation for wild rice paddies shall be based on consideration of climatic characteristics of the area and the best available technology relating to amounts of water needed to raise wild rice.

3. Well interference problems involving appropriation for irrigation.

a. For new applications.

If the commissioner determines that an adequate supply of water is available and that the proposed project is reasonable and practical as determined based on 6 MCAR §§ 1.5052 and 1.5053 A.2., but that there is a probable interference with public water supply well(s) and private domestic well(s) which may result in reducing the water levels beyond the reach of those wells, the following procedures shall apply:

(1) The applicant shall be responsible for obtaining and providing to the commissioner, available information including depth, diameter, non-pumping and pumping levels, quality and well-construction details for all domestic and public water supply wells located within the area of influence of the proposed appropriation well.

(2) The commissioner may require aquifer tests or other field tests to be conducted pursuant to Minn. Stat. § 105.416, subd. 2.

(3) The commissioner shall determine the probable interference with the domestic and public water supply wells based on theoretical computations using available information regarding the aquifer characteristics obtained from the aquifer tests and/or from hydrologic studies, and the probable effects of lowering the water levels in the domestic and public water supply wells due to the proposed irrigation use in the area. For public water supply wells only the probable interference with that portion which is used for domestic water supply is considered.

(4) The commissioner shall provide the prospective appropriator with an evaluation of the nature and degree of effect of the appropriation on the water levels of the domestic well(s) and public water supply well(s).

(5) The commissioner shall not issue the permit until the applicant submits a written agreement signed by himself and all parties identified under 6 MCAR § 1.5053 A.3.a.(3), as having probable interference, outlining the measures that will be taken to insure maintenance of water supplies to such identified parties to the extent that would have existed absent the proposed appropriation. In cases where no agreement can be reached, the commissioner shall implement the settlement procedure identified in 6 MCAR § 1.5053 A.3.e.

b. For existing permits.

If complaints are made to the commissioner by private domestic well owner(s) or public water supply authority regarding the effects of water appropriation for agricultural irrigation on the domestic water supplies, the following procedures shall be followed:

(1) The commissioner shall provide complaint forms to the parties making the complaint, thereafter referred to as "complainant."

(2) Upon receipt of the completed complaint forms the commissioner shall notify the permittee, the applicable watershed district, and the soil and water conservation district and any other governmental agency or person who may be affected or has expressed interest in the complaint.

(3) The commissioner shall investigate and assess the complaint by:

(a) Analyzing and evaluating the submitted complaint forms, hydrologic facts and characteristics of the water supply systems involved.

(b) Requesting additional facts from the complainant(s) and the permittee when necessary. In order to assure that available data on domestic well(s) are provided, the complainant shall cooperate with the permittee in providing such facts as may be available and allowing the commissioner access to obtain necessary available facts. If the complainant does not cooperate in providing available facts or allowing the commissioner access to the domestic well(s), the commissioner shall dismiss the complaint.

(c) Conducting, if necessary, a field investigation.

(d) Additional hydrologic tests and evaluation may be required if hydrologic information is unavailable or inadequate to make a determination of necessary facts in the matter. The timing and conduct of such tests shall be in accordance with the provision of Minn. Stat. § 105.41, subd. 1a, relating to modifying or restricting appropriation for irrigation.

(e) In evaluating the probable influence of the irrigation water appropriation on the domestic well(s) and public water supply well(s) the commissioner shall consider whether the domestic well(s) provides a dependable water supply while meeting the appropriate health requirements for the existing use of the affected well. For public water supply wells only the probable interference with that portion which is used for domestic water supply is considered.

(4) Where adverse effects on the domestic well(s) are substantiated, the commissioner shall notify the permittee of the facts and findings of the complaint evaluation. In the event that the commissioner determines that the domestic water supply is

endangered the commissioner may, pursuant to 6 MCAR § 1.5055 E., restrict, or cancel the appropriation until such time as a decision has been made by either negotiation, settlement or hearing.

The permittee shall within 30 days after written notification by the commissioner take appropriate action by:

(a) ~~Negotiating a reasonable agreement with the affected well owner(s). If no agreement is reached the settlement procedure outlined in 6 MCAR § 1.5053 A.3.e. shall apply; or~~

(b) ~~Requesting public hearing.~~

e. ~~Settlement.~~

If the applicant or permittee and the complainant(s) have been unable to negotiate a reasonable agreement pursuant to 6 MCAR § 1.5053 A.3.a.(5) and A.3.b.(4), the following procedure shall be implemented:

(1) The applicant or permittee shall submit a notarized written offer to the complainant, with a copy to the commissioner, within 40 days after the receipt of the written notification provided in 6 MCAR § 1.5053 A.3.b.(4), based on the following:

(a) If an existing domestic well provides an adequate domestic water supply which meets state health standards and such well no longer serves as an adequate supply because of a proposed or permitted irrigation well in the vicinity the applicant or permittee shall be responsible for all costs necessary to provide an adequate supply with the same quality and quantity as prior to the applicant's or permittee's interference.

(b) If an existing well provides an adequate domestic water supply but does not meet state health standards and such well would no longer serve as an adequate supply because of the irrigation well in the vicinity, the applicant or permittee shall be responsible for that portion of costs of providing an adequate supply, but shall not be responsible for those costs necessary to bring the domestic well(s) to state health standards.

(2) The complainant shall submit written argument to the commissioner as to why the offer is not reasonable, within 10 days from the receipt of the notarized written offer. If no response is received from the complainant, within the time limit, the commissioner shall dismiss the complaint.

(3) The commissioner shall make a decision based on the written offer and arguments and available facts, within 10 days, as follows:

(a) That the applicant or permittee has submitted a reasonable offer, the commissioner shall issue or continue the permit involved;

(b) That the applicant or permittee has not submitted a reasonable offer, the commissioner, after notice and opportunity for hearing, shall deny, modify or terminate the permit involved.

(c) That there is a need for a public hearing in which case it is ordered.

B. Public water supplies.

1. The applicant ~~may~~ shall be required to submit to the commissioner all or portions of the following data in addition to the requirements of 6 MCAR § 1.5051:

a. The number of domestic users.

b. Reasonable projection of population growth.

c. The number and type of industrial and commercial users of the public water supply system.

d. The amount of water to be supplied to domestic, industrial and commercial users respectively.

e. Other users by type of use and amount to be used from the public water supply system such as:

(1) golf courses.

(2) recreational lake level maintenance.

(3) water transferred to other supply systems.

f. Information regarding the quantity of the appropriated water to be used in distribution and waste water treatment facilities, not including volume of actual waste water.

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g. Details on emergency plans for water shortage periods outlining public information programs, priorities for limitations of discretionary water use, and alternate sources of public water supplies.

2. The commissioner's actions.

The commissioner shall allow the appropriation of water for public water supply systems based on evaluation and analysis of the data submitted by the applicant under provisions of 6 MCAR §§ 1.5051 and 1.5053 B.1., and the procedures outlined in 6 MCAR § 1.5052 and subject to 6 MCAR § 1.5053 B.3.

3. Appropriation permits issued to public water supply authorities shall be subject to requirements of Minn. Stat. § 105.418 relating to critical water deficiency periods and restriction of non-essential uses.

C. Water level maintenance for basins.

1. For water appropriation applications for the purpose of establishing and maintaining water levels for basins the applicant shall submit the following data in addition to the requirements of 6 MCAR § 1.5051:

a. Information on the basin and proposed source of supply or source of discharge, including facts indicating how the water will be appropriated and discharged and the proximity of the basin to the proposed source of supply or source of discharge.

b. Information on the design of any discharge facility into or out of the basin.

2. The commissioner shall evaluate and make decisions on applications based on facts supplied by the applicant and subject to the applicable procedures outlined in 6 MCAR § 1.5052 and the following determinations:

a. Effects on public welfare of the proposed appropriation.

b. The proposed appropriation is reasonable, practical, technically feasible and effectively accomplishes its purpose.

c. The proposed appropriation will have minimal or no detrimental effect on the basin, the proposed source of supply or the receiving water and property of riparian owners.

d. The quality of the water of the basin or the receiving water source will not be detrimentally impaired by the appropriation.

e. The proposed appropriation is consistent with 6 MCAR § 1.5024 B.1.b., public waters permits rules.

D. Dewatering. Dewatering, which involves appropriation of water from ground or surface water sources for purpose of removing excess water shall be subject to water appropriation permit requirements, unless otherwise exempted by these rules. The commissioner shall evaluate and make decisions on such application based on applicable provisions of 6 MCAR §§ 1.5051 and 1.5052 and the following additional requirements:

1. The applicant must show there is a reasonable necessity for such dewatering and the proposal is practical.

2. The applicant must show that the excess water can be discharged without adversely affecting the public interest in the receiving waters, and that the carrying capacity of the outlet to which waters are discharged is adequate.

3. The proposed dewatering is not prohibited by any existing laws.

E. Mining and processing of metallic minerals and peat.

1. All applicants for permits for mining and processing of metallic minerals and peat must provide the following information in addition to the requirements of Minn. Stat. § 105.64 and 6 MCAR § 1.5051:

a. ~~All plans, and specifications regarding withdrawal, use, storage and disposal of water of the state and necessary information regarding water withdrawal, use and reuse practices.~~

b. Details of the rate, volumes and source of water to be appropriated and consumed in processing, including all losses such as uncontrolled seepage, evaporation, plant losses and discharge volumes.

c. Criteria used in estimating the proposed appropriation, distribution and discharge based on climatic averages and extremes.

d. Details of sources, rates, and volumes of water released from the mining operations involved.

e. Details of the hydrologic and hydraulic impacts and effects of the operation on the watershed(s) including changes in basins, watercourses and ground water systems.

2. The commissioner shall analyze, evaluate, and make decisions on appropriations for mining and processing of metallic minerals based on facts submitted by the applicant pursuant to 6 MCAR §§ 1.5051 and 1.5053 E.1., subject to the conditions outlined in 6 MCAR § 1.5052 and the following considerations:

a. The commissioner ~~may~~ shall direct the applicant to utilize available surplus water from preexisting mining operations or facilities, whether owned or controlled by the applicant or others, whenever feasible and practical unless justification is provided on

why such practice should not be allowed. If the commissioner finds that an existing ~~appropriation~~ permittee has available unused water, for which there is inadequate justification, the commissioner, after notice and opportunity for hearing, ~~may~~ shall amend the existing permit to promote better utilization of the water.

b. The commissioner shall base the allocation of water on consideration of the legal requirements for water quality, the impact of the appropriation on those requirements and the following order of priorities of water supply sources located within reasonable distance to the mining or processing site:

- (1) Runoff from the mining areas;
- (2) Water from active mine pits and tailing basins when such water is not utilized for other purposes or operations;
- (3) Water from existing mining operation reservoirs where such water is not utilized for other purposes or operations;
- (4) Water from other mining and processing operations;
- (5) Water from inactive mine pits;
- (6) Water from steams appropriated during periods of high flows;
- (7) Water from ground water sources;
- (8) Water collected and stored behind off-stream impoundments;
- (9) Water collected and stored behind impoundments on streams; and
- (10) Water from natural basins greater than 500 acres in size.

c. If the disposal of excess water is necessary and if any mining operation in the area has caused or will cause a substantial reduction in watercourse flow, the commissioner ~~may~~ shall where feasible and practical require the permittee to discharge excess water in a manner that would restore the flow. Such action shall consider the existing and anticipated use of excess water by higher priority users and must be in compliance with appropriate rules of the Minnesota Pollution Control Agency.

6 MCAR § 1.5054. Well interference problems involving appropriation.

A. For new applications. If the commissioner determines that an adequate supply of water is available and that the proposed project is reasonable and practical as determined based on 6 MCAR §§ 1.5052 and 1.5053 A., but that there is a probable interference with public water supply well(s) and private domestic well(s) which may result in reducing the water levels beyond the reach of those wells, the following procedurss shall apply:

1. The applicant shall be responsible for obtaining and providing to the commissioner, available information including depth, diameter, non-pumping and pumping levels, quality and well construction details for all domestic and public water supply wells located within the area of influence of the proposed appropriation well.

2. The commissioner may require aquifer tests or other field tests to be conducted.

3. The commissioner shall determine the probable interference with the domestic and public water supply wells based on theoretical computations using available information regarding the aquifer characteristics obtained from the aquifer tests and/or from hydrologic studies, and the probable effects of lowering the water levels in the domestic and public water supply wells due to the proposed appropriation in the area. For public water supply wells only the probable interference with that portion which is used for domestic water supply is considered.

4. The commissioner shall provide the prospective appropriator with an evaluation of the nature and degree of effect of the appropriation on the water levels of the domestic well(s) and public water supply well(s).

5. The commissioner shall not issue the permit until the applicant agrees to exercise any of the following options within 30 days after written notification by the commissioner:

a. accept a modification or restriction of the permit application to provide for an adequate domestic water supply; or

b. submit a written agreement signed by the applicant and all parties identified under 6 MCAR § 1.5054 A.3. as having probable interference. Such agreement shall outline the measures that will be taken to insure maintenance of water supplies to such

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identified parties to the extent that would have existed absent the proposed appropriation. In cases where no agreement can be reached, the commissioner shall implement the settlement procedure identified in 6 MCAR § 1.5054.D.

B. For existing permits. If complaints are made to the commissioner by private domestic well owner(s) or public water supply authority regarding the effects of a water appropriation on the domestic water supplies, the following procedures shall be followed:

1. The commissioner shall provide complaint forms to the parties making the complaint, thereafter referred to as "complainant."

2. Upon receipt of the completed complaint forms the commissioner shall notify the permittee, the applicable watershed district, and the soil and water conservation district and any other governmental agency or person who may be affected or has expressed interest in the complaint.

3. The commissioners shall investigate and assess the complaint by:

a. Analyzing and evaluating the submitted complaint forms, hydrologic facts and characteristics of the water supply systems involved.

b. Requesting additional facts from the complainant(s) and the permittee when necessary. In order to assure that available data on domestic well(s) are provided, the complainant shall cooperate with the permittee in providing such facts as may be available and allowing the commissioner access to obtain necessary available facts. If the complainant does not cooperate in providing available facts or allowing the commissioner access to the domestic well(s) the commissioner shall dismiss the complaint.

c. Conducting, if necessary, a field investigation.

d. Additional hydrologic tests and evaluation shall be required if hydrologic information is unavailable or inadequate to make a determination of necessary facts in the matter. For irrigation appropriations, the timing and conduct of such tests shall be in accordance with the provision of Minn. Stat. § 105.41, subd. 1a. relating to modifying or restricting appropriation for irrigation.

e. In evaluating the probable influence of the water appropriation on the domestic well(s) and public water supply well(s) the commissioner shall consider whether the domestic well(s) provides a dependable water supply while meeting the appropriate health requirements for the existing use of the affected well. For public water supply wells only the probable interference with that portion which is used for domestic water supply is considered.

4. Where adverse effects on the domestic well(s) are substantiated, the commissioner shall notify the permittee of the facts and findings of the complaint evaluation. In the event that the commissioner determines that the domestic water supply is endangered the commissioner shall pursuant to 6 MCAR § 1.5056 E., unless a temporary solution is worked out, restrict or cancel the appropriation until such time as a decision has been made by either negotiation, settlement or hearing.

5. The permittee shall within 30 days after written notification by the commissioner take appropriate action by exercising any of the following options:

a. Requesting the commissioner to modify or restrict the permit in order to provide for an adequate domestic water supply.

b. Negotiating a reasonable agreement with the affected well owner(s). If no agreement is reached, the settlement procedure outlined in 6 MCAR § 1.5054 D. shall apply; or

c. Requesting a public hearing.

C. New domestic wells installed after appropriation permits have been issued.

In the event that new domestic wells, exempt from permit requirements, are installed in area of adequate ground water supplies where permits have been issued for appropriation the following shall apply:

1. It shall be the responsibility of the prospective new domestic well owner to insure that the new domestic well will be constructed at adequate depth so that it will provide an adequate domestic water supply which will not be limited by the permitted appropriation.

2. Holders of valid permits for appropriation of water in areas where adequate water supplies are available shall not be responsible for well interference problems, involving new domestic wells exempt from permit, when such exempt domestic wells are installed subsequent to authorized appropriation.

D. Settlement. If the applicant or permittee and the complainant(s) have been unable to negotiate a reasonable agreement pursuant to 6 MCAR § 1.5054 A.5 and B.5. the following procedure shall be implemented:

1. The applicant or permittee shall submit to the complainant a notarized written offer including a statement that the complainant must respond in writing to the commissioner within 10 days from the receipt of the offer either accepting the offer or explaining why it is rejected. The offer must be submitted to the complainant with a copy to the commissioner within 40 days after the receipt of the written notification provided in 6 MCAR § 1.5054 A.5. and B.5., based on the following:

a. If an existing domestic well provides an adequate domestic water supply which meets state health standards (7 MCAR § 1.217 to § 1.222) and such well no longer serves as an adequate supply because of the proposed or permitted appropriation in the vicinity the applicant or permittee shall be responsible for all costs necessary to provide an adequate supply with the same quality as prior to the applicant's or permittee's interference.

b. If an existing well provides an adequate domestic water supply but does not meet state health standards (7 MCAR § 1.217 to 1.222.) and such well would no longer serve as an adequate supply because of the proposed or permitted appropriation in the vicinity, the applicant or permittee shall be responsible for that portion of costs of providing an adequate water supply, but shall not be responsible for those costs necessary to bring the domestic well(s) to state health standards.

2. The complainant shall, within 10 days from the receipt of the notarized written offer respond to the commissioner in writing either accepting the offer or making argument on why the offer is not reasonable. If no response is received from the complainant, within the time limit, the commissioner shall dismiss the complaint.

3. If the offer is not accepted the commissioner shall make a decision based on the written offer and arguments and available facts, within 10 days, as follows:

a. That the applicant or permittee has submitted a reasonable offer, the commissioner shall issue or continue the permit involved;

b. That the applicant or permittee has not submitted a reasonable offer, the commissioner, after notice and opportunity for hearing, shall deny, modify or terminate the permit involved.

c. That there is a need for a public hearing in which case it is ordered.

6 MCAR § ~~1.5054~~ 1.5055 Water use conflicts.

A. Conflict defined. For the purpose of these rules a conflict occurs where the available supply of waters of the state in a given area is limited to the extent that there are competing demands among existing and proposed users which exceed the reasonably available waters. Existing and proposed appropriations could in this situation endanger the supply of waters of the state so that the public health, safety and welfare would be impaired.

B. Procedure. Whenever the total withdrawals and uses of ground or surface waters would exceed the available supply based on established resource protection limits, including protection elevations and protected flows for surface water and safe yields for ground water, resulting in a conflict among proposed users and existing legal users the following shall apply:

1. In no case shall a permittee be considered to have established a priority right of use or appropriation by obtaining a permit.

2. The commissioner shall analyze and evaluate the following:

a. The reasonableness for use of water by the proposed and existing users.

b. The water use practices by the proposed and existing users to determine if the proposed and existing users are or would be using water in the most efficient manner in order to reduce the amount of water required.

c. The possible alternative sources of water supply available to determine if there are feasible and practical means to provide water to satisfy the reasonable needs of proposed and existing users.

3. If conflicts can be resolved by modifying the appropriation of the proposed and existing users, the commissioner shall do so.

4. If conflicts cannot be resolved through modification of proposed and existing permits the commissioner shall base the decision regarding issuance ~~or denial~~ of new applications and retention, modification or termination of existing permits on the basis of existing priorities of use established by the legislature as follows:

a. If the unresolved conflict involved users who are or would be in the same priority class, the commissioner ~~may~~ shall require the proposed users and existing permitted users to develop and submit a plan which will provide for proportionate distribution of the limited water available among all users in the same priority class. The commissioner shall withhold consideration of new applications, and shall, if the existing permitted appropriations endanger the supply of waters of the state, suspend or limit the existing permits, until a plan is approved by the commissioner.

(1) The plan must include proposals for allocating the water which address the following:

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(a) possible reduction in the amounts of appropriation so that each user would receive a proportionate amount of water for use.

(b) possible restrictions in the timing of withdrawals so that each user would be allowed to withdraw a proportionate share of water for use over certain periods of time.

~~(2) The commissioner may withhold consideration of new applications and suspend appropriations under existing permits until a plan is submitted and approved by the commissioner.~~

~~(2) (3)~~ If the commissioner approves the proposed plan, new permits will be issued and existing permits will be amended in accordance with that plan.

~~(3) (4)~~ If the commissioner determines that the proposed plan is not practical, or reasonable the commissioner ~~may~~ shall develop a new plan or modify the proposed plan to provide proportionate share of water among the users involved. The commissioner shall issue new permits and amend existing permits based on that plan.

b. If the unresolved conflict involves users who are or would be in a different priority class the available water supply shall be allocated to existing and proposed users based on the relative priority of use. Highest priority users shall be satisfied first. Any remaining available water supply shall be allocated to the next succeeding priority users, until no further water is available. Users in the same priority class shall be offered the same option as provided in section B.4.a. above.

C. ~~e.~~ All actions by the commissioner shall be made after notice and opportunity for public hearing.

6 MCAR § ~~1.5055~~ 1.5056 Provisions and conditions of permits. Water appropriation permits shall include the following provisions and conditions, unless otherwise required by law:

A. Term of permits. Permits shall be issued for temporary or for long-term appropriation.

1. Temporary permits involve a one-time, limited life, not more than 12 months, non-recurring appropriation of waters of the state, such as for highway construction, exploratory drilling for minerals, hydrostatic testing of pipelines and other short-term projects. Reasonable Requested time extensions ~~may~~ shall be permitted, but in no case shall the total length of time the permit remains in force exceed two years.

2. Long-term permits will remain in effect subject to applicable permit provisions and conditions of the permit, the law and these rules, provided that in cases where the permittee is not the landowner of record, the term of the permit shall be the same as that of the property rights or license held.

B. Monitoring. All permittees shall measure and keep monthly and yearly records of the quantity of water used or appropriated at the point of taking from each source under permit.

1. Measuring water appropriated. Each installation for appropriating or using water shall be equipped with a device or employ a method to measure the quantity of water appropriated to ~~not less than~~ within ten percent of actual withdrawal.

a. The commissioner shall determine the method to be used for measuring water appropriated based on:

- (1) the quantity of water appropriated or used;
- (2) the source and location of the appropriation;
- (3) the method of appropriating or using water;
- (4) other facts supplied by the permittee.

b. The commissioner shall require flow meters to be used whenever the rate of appropriation is ~~at or~~ greater than ~~1000~~ 1500 gallons per minute, unless the permittee can show justification why flow meters cannot practically be used or are not necessary considering the factors contained in 6 MCAR § 1.5056 B. 1. and B.1.a. Such justification must be supported by facts which indicate the technical difficulties which would be encountered if flow meters were required.

2. Measuring water levels.

a. For surface water appropriations, where applicable, the permittee shall measure flows or levels in the watercourse or basin at a specific gage designated by the commissioner and located within the area of appropriation. The commissioner ~~may~~ shall require permittees to pay necessary costs of establishing and maintaining such gages as provided in 6 MCAR § 1.5000, rules for permit fees.

b. For ground water appropriation, the commissioner, ~~based on the need for ground water data in specific areas,~~ availability of hydrologic data on the aquifer involved, frequency and rate of pumping and probability of conflict or well interference, shall require the permittee to measure and keep records of the water levels in each production well at reasonable times prescribed in the permit. Observation wells may be required as a condition of the permit to better evaluate hydrologic conditions and effects in areas where hydrologic data are unavailable, where probable conflict or well interference problems may occur and where such wells are required by law.

C. Reporting. Annual calendar year monthly records of the amount of water appropriated or used and the water level measurements shall be recorded for each installation. Such readings and the total amount of water appropriated and used shall be reported annually to the commissioner, on or before February 15 of the following year upon forms to be supplied by the commissioner unless otherwise specified in the permit.

1. Such records shall be submitted with an annual water appropriation processing fee as required by Minn. Stat. § 105.3741, subd. 5 for each permit whether or not any water was appropriated during the year.

2. Additional information ~~may~~ shall be required such as acreage irrigated, identification of water disposal sites and amount of water discharged when necessary for the statewide water information system (Minn. Stat. § 105.41, subd. 2).

3. Failure to report and pay the fee shall be sufficient cause for terminating a permit 30 days following written notice by the commissioner of the violation of the permit.

4. No fee is required from any state agency as defined in Minn. Stat. § 16.011 or any federal agency.

D. Changes to permits.

1. Amendments.

a. Request for amendments by permittees.

(1) Major modification of any water appropriation permits shall not be made before obtaining the written permission from the commissioner. Major modification ~~may~~ includes changes such as substantial increase or decrease in the rate and quantity of water withdrawn, any change in source of appropriation or substantial change in the amount of land irrigated, when applicable.

(2) Request for amendment ~~may~~ can be made by letter or on forms supplied by the commissioner. New applications ~~may~~ shall be required when there are changes in the source of supply, the purpose of appropriation, or when the proposed increases in rates and amounts of water would probably create conflict or well interference.

(3) Requests for amendments shall be reviewed as if they were for a new application, subject to provisions of 6 MCAR §§ 1.5050-1.5057.

b. Amendments initiated by the commissioner. Pursuant to authority in Minn. Stat. § 105.44, subd. 9, the commissioner may modify or amend any existing permits based on the following procedures and the criteria in 6 MCAR §§ 1.5052 and 1.5053, where applicable.

(1) The commissioner shall notify the permittee of the intent to amend the permit. The notice will include details on modifications to be implemented by the permittee and the timing to complete the modifications.

(2) The permittee shall respond within 30 days from receipt of the notice. Such response period ~~may~~ shall be thereafter extended by the commissioner for good cause shown.

(3) If no response is received in 30 days and no extension of response time is authorized by the commissioner, the proposed amendments shall be made.

(4) The commissioner based on the permittee's response and the criteria established in these rules shall either modify the proposed amendment or adopt the original proposed amendment.

c. All amendments and modifications are made after notice and opportunity for hearing.

2. Transfers or assignments. If the property involving a water appropriation permit is sold, transferred or assigned to another person, the permit may be transferred to the transferee, without the necessity of reapplication, subject to the following:

~~a. The permittee shall notify the commissioner of any sale, transfer or assignment of property involved within 30 days thereafter.~~

~~b. The permittee shall notify the transferee of the existence of a permit on the subject property and the necessity for transfer notification.~~

~~c. The transferee shall submit written notification to the commissioner stating the intention to continue the appropriation as stated in the permit. If the transferee intends to modify the existing permit, new application may be required subject to the provisions of 6 MCAR § 1.5055 D.1.~~

a. The transferee shall, within 90 days after date of property sale, transfer or assignment, or within a longer period of time

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allowed by the commissioner for good cause shown, submit written notification to the commissioner stating the intention to continue the appropriation as stated in the permit. If the transferee intends to make major modifications to the existing permit, new application shall be required subject to the provisions of 6 MCAR § 1.5056 D.1.

b. ~~d~~ No permit is assigned except with the written consent of the commissioner.

E. Limitations on permits. All permits issued by the commissioner since 1949 are subject to the provisions of Minn. Stat. § 105.44, subd. 9 relating to cancellation and conditions of permits and Minn. Stat. § 105.45 relating to terms and reservations with respect to the amount and manner of such use or appropriation or method of construction or operation of controls as appears reasonably necessary for the safety and welfare of the people of the state.

The commissioner, subject to the terms and conditions of such existing permits, may modify, restrict or cancel an existing appropriation or use until such time as a decision has been reached by either negotiation, settlement or after a public hearing. If a permit does not contain a provision which restricts appropriation or use for the protection of safety or welfare of the people of the state the commissioner cannot modify or restrict an existing appropriation until opportunity is provided for a public hearing and where ordered a public hearing has been completed.

F. Terminations. Permits ~~may~~ shall be terminated under the following:

1. Request by the permittee.
2. When any of its provisions are violated.
3. When the permittee sells, transfers or assigns the property ~~rights~~ described in the permit and ~~no transfer is requested by the transferee within 90 days of transfer of title~~ does not wish to continue appropriating.
4. Upon finding that the permittee has violated the provisions of any applicable laws and rules.
5. Where the permittee has ~~ceased~~ not, for 5 consecutive years, from the date of issuance of the permit, appropriated to use the water and no reasonable justification is shown. Such time shall be extended by the commissioner for good cause shown.
6. When the lease or contract for deed is forfeited or cancelled.
7. Permits for agricultural irrigation ~~may~~ shall be subject to termination by the commissioner upon justifiable recommendation of the supervisors of the soil and water conservation district, wherein the land irrigated is located, regarding the inadequacy of the soil and water conservation measures.
8. When the commissioner deems it necessary for the conservation of the water resources of the state or in the interest of public health, safety and welfare.
9. When the commissioner deems it necessary pursuant to 6 MCAR §§ 1.5054 and ~~1.5053 A-~~ 1.5055.
10. Any action pursuant to 2, 4, 5, 6, 7, 8 and 9 above shall be subject to appropriate notice and opportunity for hearing, except as provided in 6 MCAR § ~~1.5055~~ 1.5056 E.
11. In the case of permits for mining issued in conjunction with Minn. Stat. § 105.64 procedures for termination shall be subject to provisions of Minn. Stat. § 105.64, subd. 6.

6 MCAR § ~~1.5056~~ 1.5057 Miscellaneous provisions.

A. Local permits. The commissioner, pursuant to Minn. Stat. § 105.41, subd. 1b, ~~may~~ shall delegate to municipal, county, or regional level of government, the authority to process and approve permits applications for the appropriation and use of waters of the state in amounts of more than 10,000 gallons per day and more than 1 million gallons per year, but less than 3.6 million gallons per year. subject to all of the following requirements:

Such delegation shall be made at the municipal, county or regional level which means a governmental entity, or several governmental entities in combination, having authority or jurisdiction over areas of geographical extent beyond the limits of a single county, or a watershed district.

The delegation by the commissioner shall be subject to the following requirements:

1. The ~~local~~ authorized unit of government has established an administrative process which includes provisions for establishing a water appropriation management planning process consistent with 6 MCAR § ~~1.5057~~ 1.5058.
2. The review and approval of applications are consistent with the applicable provisions of these rules.
3. A formalized agreement is made and signed by the commissioner and the appropriate municipal, county or regional level authority involved.
4. Copies of all applications and records of local actions on applications are provided to the commissioner upon receipt and action.

5. Records of water appropriation amounts and the processing fee shall be submitted by the permittee to the commissioner as required by 6 MCAR § ~~1.5055~~ 1.5056 B. and C. and Minn. Stat. § 105.41, subd. 5.

B. Water conservation. In order to maintain water conservation practices in the water appropriation and use regulatory program it is necessary that existing and proposed appropriators and users of waters of the state employ the best available means and practices based on economic considerations for assuring wise use and development of the waters of the state in the most practical and feasible manner possible to promote the efficient use of waters.

Based on data submitted by applicants and permittees and current information on best available water conservation technology and practice the commissioner, in cooperation with the owners of water supply systems, may analyze the water use practices and procedures and may require a more efficient use of water to be employed by the permittee or applicant, subject to notice and opportunity for hearing.

C. Abandonment of wells. The permittee shall notify the commissioner prior to abandoning, removing, covering, plugging or filling the well or wells by means of which a water appropriation was made. The commissioner shall require abandonment procedures and methods consistent with Minn. Health Department rules, ~~MHD 218~~ 7 MCAR § 1.218.

D. Field investigations. In order to fully evaluate water appropriations, the commissioner may conduct field investigations to determine the nature and scope of the appropriation and the impact it has or will have on water and related land resources. Such field inspection ~~may~~ shall be made in a timely fashion and ~~may~~ shall be coordinated with one or more of the following divisions of the Department: enforcement, fish and wildlife, forestry, minerals, lands and parks and recreation. A fee ~~may~~ shall be charged for field inspections subject to 6 MCAR § 1.5000, subd. G.1.-G.5, rules for permit fees.

E. Information on appropriation permit laws. The applicants or existing permittees shall, upon request to the commissioner, be furnished copies of applicable portions of the law or synopsis, where they exist, relating to their proposed or existing appropriation.

6 MCAR § ~~1.5057~~ 1.5058 Water appropriation and use management plans.

A. In order to address the provisions of Minn. Stat. §§ 105.403, 105.405 and § 105.41, subd. 1a, the commissioner, in cooperation with other state and federal agencies, regional commissions and authorities, local governments and citizens, establishes the following process for the preparation and implementation of the elements of any state, regional and local plan relating to water appropriation and use.

B. Criteria and procedures. Since the availability, distribution and utilization of waters of the state and the character and use of related land resources vary considerably throughout the state, a comprehensive water appropriation management planning process must be based on these considerations and according to the following principles and procedures:

1. Water appropriation management plans should be prepared for specific definable areas of the state on consideration of:

a. The hydrologic and physical characteristics of the water and related land resources for which a management plan is necessary. The area must be of sufficient size and areal extent so that the interrelationship of geohydrologic and climatic factors can be adequately defined and managed.

b. The determination by the commissioner of the need for establishment of a water appropriation management plan for the waters of the state within a specific definable area based on:

(1) Areas where development of the waters of the state is, or is likely to, increase considerably within the next 5-10 years.

(2) Areas where severe water availability problems exist or are soon likely to exist.

(3) Areas where there are adequate facts and available geohydrologic data relating to the availability, distribution and use of the waters of the state and where there is local interest in establishing water appropriation management plans.

2. Upon establishment of the need for a water appropriation management plan pursuant to B.1. above, the commissioner shall establish a management planning process including procedures, a public participation process and development of a planning team consisting of representatives of the department, permittees and any other interested, concerned and involved government or citizen group listed in section A above, to review and cooperate in preparation of the plan.

C. General requirements and contents. Every water appropriation plan should, at a minimum, include:

1. An evaluation of the amount and dependability of information on the hydrologic systems of the area and the adequacy of the

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information to provide necessary facts on the amounts of water which can be reasonably withdrawn from the waters of the state in the area without creating major environmental problems or diminishing the long-term seasonal supply of water for various purposes. This will provide essential background information for establishing protected flows and protection elevations, 6 MCAR § 1.5052 B.2.f.

2. An evaluation of data on stream quality and flows, lake water quality and levels, ground water quality and levels, and climatic factors. This will provide essential data useful to the applicant and the commissioner in permit application considerations, 6 MCAR §§ 1.5051, 1.5052 and 1.5053.

3. An evaluation of present and anticipated future use of waters and lands and the amounts and distribution of use within the area. This will facilitate the determinations necessary under 6 MCAR § 1.5052 A.1.b.

4. An evaluation of the problems and concerns relating to the use of the waters in the area.

5. Water conservation alternatives and methods and procedures for dealing with water shortages or excesses during periods of deficient or excess water, see 6 MCAR §§ 1.5051 B.6., 1.5053 B.1.g. and 1.5058 B.

6. Considerations of the relationship of the water appropriation and use management plan to other water resources programs of the state, such as floodplain management, shoreland management, water surface use management, water quality management, soil and water conservation management and agricultural land management.

Office of the Secretary of State Election and Legislative Manual Division

Adopted Rules Governing Election Judge Training, Absentee Voting Materials and Delivery Procedures, and Adopted Amendments to Rules Governing Voter Registration, Preparation of the White Ballot and Certification and Use of Voting Machines

The rules published and proposed at *State Register*, Volume 4, Number 12, pp. 479-493, September 24, 1979 (4 S.R. 479) are now adopted with the following amendments:

Rules as Adopted

Contents

- 1 MCAR § 2.5101 Scope and purpose.
- 1 MCAR § 2.5102 Definitions.
- 1 MCAR § 2.5103 Delegation of training duty.
- 1 MCAR § 2.5104 Training conference.
- 1 MCAR § 2.5105 Training program.
- 1 MCAR § 2.5106 Training requirements.
- 1 MCAR § 2.5107 Health care facility absentee voting requirement.
- 1 MCAR § 2.5108 Emergency training requirement.
- 1 MCAR § 2.5109 Basic training course.
- 1 MCAR § 2.5110 Review course.
- 1 MCAR § 2.5111 Course for health care facility absentee voting.
- 1 MCAR § 2.5112 Emergency training course.
- 1 MCAR § 2.5113 Training materials.
- 1 MCAR § 2.5114 Training record.
- 1 MCAR § 2.5115 Certification of training.
- 1 MCAR § 2.5116 Training plan.
- 1 MCAR § 2.5117 In-service review.
- 1 MCAR § 2.5118 Training evaluation.
- 1 MCAR § 2.5119 Effective date.

1 MCAR § 2.5103 Delegation of training duty. ~~Before May 1, 1980, e~~Each county auditor shall notify the secretary of state of municipal election officials to whom the auditor has delegated the duty to train election judges. The notification of delegation shall include the name of the municipality, the date of delegation, the name and address of the municipal clerk and the name and address of the municipal election official delegate, if different from the municipal clerk. ~~Thereafter, when a county auditor delegates to a municipal election official the duty to train election judges, t~~The auditor shall notify the secretary of state within thirty days after the delegation.

1 MCAR § 2.5106 Training requirements.

D. The training authority shall determine the maximum number of trainees in each training session conducted pursuant to §§ 2.5109 and 2.5110. The maximum number of trainees shall be appropriate to the methods of instruction used.

1 MCAR § 2.5108 Emergency training requirement. When an election judge is ~~appointed~~ elected after the opening of the polls and has not completed the Basic Training course or Review course conducted for that election, he shall complete the Emergency Training course as provided in 1 MCAR § 2.5112. ~~before performing his duties.~~

1 MCAR § 2.5109 Basic training course.

B. Materials. The training authority shall provide each election judge trainee with ~~copies~~ examples of all forms which election judges must complete in the course of their duties; with examples of all forms of identification acceptable for purposes of election day registration, including any forms of student identification issued by educational institutions in the area; and with all materials contemplated in the training plan approved by the secretary of state pursuant to 1 MCAR § 2.5116. Additional materials may be provided by the training authority as he deems useful.

C. A voting machine, electronic voting system, or specimen paper ballot and ballot box shall be utilized at each training session to familiarize each election judge with the voting procedures for the method of voting employed in the precinct where the judge will serve.

1 MCAR § 2.5110 Review course.

~~B. Participation. The maximum number of election judge trainees in each session shall be 75.~~

~~B. C. Course content.~~

1 MCAR § 2.5112 Emergency training course.

B. Course content. The chairman judge shall review with an ~~appointed~~ a replacement judge the following procedures. all procedures and duties which are assigned to the replacement judge.

- ~~1. Election day registration.~~
- ~~2. Step-by-step review of the voting process.~~
- ~~3. Challenge process.~~
- ~~4. Demonstration of voting system in use in the polling place.~~
- ~~5. The duties assigned to the replacement election judge.~~

1 MCAR § 2.5116 Training plan. ~~Before May 1 of e~~Each general election year, the Secretary of State shall provide each county auditor with materials to aid in the development of a local training plan. County auditors shall transmit this material to each training authority in the county. Each training authority shall submit a training plan to the Secretary of State ~~by July 1 of each general election year, except that the first training plan covering the review course need not be submitted until February 1, 1981. In all general election years after 1980, the Secretary of State shall provide materials before May 1 and training plans shall be submitted before July 1.~~

C. The training plan shall be subject to approval by the secretary of state, who shall approve the plan if it conforms to applicable state statute and these rules.

1 MCAR § 2.5117 In-service review. After each primary election and before each ensuing general, special or municipal election, the training authority shall confer or correspond with the chairman judge of each precinct to review problems or questions encountered at the primary. The training authority shall analyze problems indicated by the election returns, incorrect registrations, or voter complaints and shall answer questions of the chairman judges.

1 MCAR § 2.5119 Effective date. These rules shall be effective for all elections occurring after September 1, 1980; ~~except that 1 MCAR §§ 2.5103 and 2.5116 shall become effective April 1, 1980.~~

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Rules as Adopted

Contents

Chapter One: Forms for Absentee Voting

- 1 MCAR § 2.4101 Absentee ballot application.
- 1 MCAR § 2.4102 Ballot envelope.
- 1 MCAR § 2.4103 Instructions to absent voter.
- 1 MCAR § 2.4104 Absent voter's certificate.
- 1 MCAR § 2.4105 Absentee ballot return envelope.

Chapter Two: Methods and Procedures for Return of Absentee Ballots

- 1 MCAR § 2.4201 Mailing or delivering absentee ballot return envelopes.
- 1 MCAR § 2.4202 Duties of county auditor or municipal clerk upon receipt of absentee ballot return envelope.
- 1 MCAR § 2.4203 Retaining ballots.
- 1 MCAR § 2.4204 Safeguarding procedures.
- 1 MCAR § 2.4205 Mail pick-up.

Chapter One: Forms for Absentee Voting

1 MCAR § 2.4101 Absentee ballot application.

A. An absentee ballot application prepared by the county auditor or municipal clerk pursuant to Minn. Stat. § 207.04, subd. 2, shall be in the following form:

Absentee Ballot Application for _____
(print or type your name)

READ INSTRUCTIONS BEFORE COMPLETING.

I hereby apply for absentee ballots to be voted upon in my precinct at the next election for the following reason:

(Check one box)

- absence from precinct
- illness or disability
- religious discipline or observance of religious holiday
- service as election judge in another precinct

My legal residence address is:

Street or Route no. Apt. no. Rural box no.

City Township County Zip
(check whichever is applicable)

My current precinct is _____ (if known)

Mail my absentee ballot to me at the following address:

Street or Route no. Apt. no. Rural box no.

City or Township State Zip

Date _____
Legal signature _____

The following certification and instructions shall be printed on the Absentee Ballot Application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application and you must not intend to abandon this residence prior to election day. Please note that Minn. Stat. § 207.14 provides that "Any person who shall wilfully make or sign any false certificates specified herein; any person who shall wilfully make any false or untrue statement in any "Application for Ballots"; any person who shall wilfully exhibit to any other person any ballot marked by him; any person who shall in any way wilfully do any act contrary to the terms and provisions of this chapter with intent to cast an illegal vote in any precinct or to aid another in so doing shall be guilty of a felony."

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

~~4. Give your current precinct number or name IF YOU KNOW IT.~~

4. ~~5.~~ Be sure to sign the application.

5. ~~6.~~ Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. This application form will obtain ballots for only the NEXT election. You must apply separately for each election.

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

office use only

Certification:

This is to certify that ballots were mailed delivered in person to the voter named on this application this _____ day of _____, 19____.

(county auditor, clerk)

1 MCAR § 2.4103 Instructions to absent voter. Instructions to absent voter shall be enclosed with the absentee ballot materials mailed or delivered to the absent voter. The instructions shall be in the following form:

Instructions to Absent Voter

Follow these instructions carefully. **AN IMPROPERLY-COMPLETED BALLOT OR ABSENT VOTER'S CERTIFICATE COULD WILL INVALIDATE YOUR BALLOT.**

(1) Locate an eligible voter in the county in which you are registered or registering to vote, a notary public, United States postmaster, assistant postmaster, postal supervisor, clerk of a postal service contract station, or any officer having authority to administer an oath ~~or an eligible voter in your county~~. This person will be your witness.

(2) If no voter registration card is enclosed with your ballot, you are properly registered and may proceed to (4).

(3) If a registration card is enclosed with your ballot, you are not registered and must complete the registration card in order to have your ballot counted. After completing the voter registration card you must furnish proof of residence to your witness by one of the following means:

- a. valid Minnesota Driver's License or Learner's Permit or a receipt for either;
- b. valid Minnesota Identification Card issued by the Minnesota Department of Public Safety or a receipt thereof;
- c. a current student identification card, student fee statement, or copy of a student registration card that contains your valid address in the precinct in which you are registering;

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- d. valid registration in the same precinct under a different address;
- e. "ineffective registration notice" mailed by the county auditor, or municipal clerk;
- f. a person who is registered to vote in the precinct and knows you are a resident of the precinct swearing to your residence.

Show these instructions to your witness and have him indicate in the proper box on the Absent Voter's Certificate on the white Absentee Ballot Return Envelope which method of proving residence you used. INSERT THE COMPLETED VOTER REGISTRATION CARD IN THE WHITE ABSENTEE BALLOT RETURN ENVELOPE. DO NOT PUT THE VOTER REGISTRATION CARD IN THE BUFF-COLORED BALLOT ENVELOPE.

(4) Exhibit the unmarked ballots to your witness.

(5) In his presence mark the ballots in such a manner that he cannot see your vote. If you are physically unable to mark your ballot or cannot read English, you may ask him to mark your ballot for you.

(6) Fold each ballot separately so that your cross marks cannot be seen without unfolding the ballot and so that the blank lines for the election judges' initials on the back of the ballot can be seen without unfolding the ballot. DO NOT PUT YOUR NAME, INITIALS OR ANY OTHER IDENTIFYING MARK ON THE BALLOTS.

(7) Enclose all the ballots in the buff-colored Ballot Envelope and seal the envelope. Do not write on the Ballot Envelope.

(8) Print your name and address and sign your name on the Absent Voter's Certificate on the back of the white Absentee Ballot Return Envelope. Your witness must fill in ~~insert~~ the state and county where you mark your ballots; date the certificate; sign his name; print or type his name; indicate his official title if he is an official, or indicate his address if he is a registered an eligible voter in the county.

(9) Insert the buff-colored Ballot Envelope in the white Absentee Ballot Return Envelope. If you received a voter registration card, be sure it is completed and enclosed in the Absentee Ballot Return Envelope. Seal the white Absentee Ballot Return Envelope. An unsealed envelope will not be accepted.

(10) You may deposit the Absentee Ballot Return Envelope in the mail or hand deliver it to the county auditor or municipal clerk from whom you received it.

(11) You may designate an agent to mail the Absentee Ballot Return Envelope or to deliver it in person to the county auditor or municipal clerk from whom you received it. An agent must be at least 18 years old. No individual may serve as the agent for more than three voters in one election. Be sure to SEAL your Absentee Ballot Return Envelope before giving it to your agent.

~~(12) If you designate an agent to deliver in person your Absentee Ballot Return Envelope, you must complete the Agent Appointment form on the lower portion of this page. The agent must give this Appointment to the auditor or clerk along with your SEALED Absentee Ballot Return Envelope before your Absentee Ballot Return Envelope will be accepted. Be sure to complete the entire Appointment! If the Appointment is incomplete, your Absentee Ballot Return Envelope will not be accepted.~~

~~(12)~~ (13) You may mark and mail or deliver your ballots at any time after you receive them. However, if mailing your ballots, allow sufficient time so that they can be delivered by the U.S. Postal Service on election day. If you or your agent deliver in person your Absentee Ballot Return Envelope, the auditor or clerk must receive it before 4:30 p.m. on the day before an election day.

~~(complete this form if an agent is delivering in person your Absentee Ballot Return Envelope)~~

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~~Detach here~~

~~AGENT APPOINTMENT~~

I, _____, residing at
(print name of absent voter)

_____, do hereby designate
(give legal address)

_____, as my agent to deliver in person
(print name of agent)

my Absentee Ballot Return Envelope to the election official from whom I received my absentee ballots.

(date)

(legal signature of absent voter)

I, _____ do hereby promise to deliver the above named voter's Absentee Ballot Return
(print name of agent)

Envelope and this Appointment promptly and without interference to the appropriate official.

(date)

(legal signature of agent)

(legal address of agent)

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1 MCAR § 2.4104 Absent voter's certificate.

A. The Absent Voter's Certificate shall be printed in the following form:

ABSENT VOTER'S CERTIFICATE
OF

(legal name of absent voter)

(legal address of absent voter)

I swear that on election day I will meet the requirements provided by law to vote by absentee ballot.

(legal signature of voter)

County of _____

State of _____

I hereby certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence and in such manner that I could not see his vote, he marked the ballots and enclosed and sealed them in the Ballot Envelope; that if the above-named voter registered to vote by enclosing a voter registration card in the Absentee Ballot Return Envelope then he provided proof of his residence as indicated below.

(date)

(legal signature of witness)

(print or type name of witness)

(official title if witness is an official)

(legal address of witness if a registered an eligible voter)

Method used by voter to prove residence if registering:

Driver's License _____
or Permit or Receipt (number)

Minn. ID Card or _____
receipt (number)

Registration in same
precinct

Notice of Ineffective
Registration

Student ID _____
(number)

Registered voter in
precinct

(legal signature)

(name)

(legal address)

B. The county auditor or municipal clerk may complete the first two lines of an Absent Voter's Certificate before mailing it to the absent voter by printing the name and address of the absent voter.

1 MCAR § 2.4105 Absentee ballot return envelope.

B. The Absentee Ballot Return Envelope shall be printed according to the following specifications:

1. The envelope shall be ~~40~~ 10-3/8 inches by 4½ inches.

C.4. When an auditor has the duty to address envelopes for a municipality and the envelopes are to be addressed to the election judges, the clerk shall notify the auditor of the proper mailing address of each polling place in the municipality. ~~The clerk shall make an initial notification to the county auditor of polling place addresses in his municipality before August 1, 1980. Thereafter, t~~ The clerk shall notify the auditor of every change of polling place address within 30 days after the change.

E. County auditor or municipal clerk may affix his return address to the upper left-hand corner of the Return Envelope.

~~F. E-~~ County auditors shall notify the secretary of state in the annual report required by Minn. Stat. § 201.091, subd. 5, which methods of returning Absentee Ballot Return Envelopes have been adopted in their counties and where each method is in effect.

Chapter Two: Methods and Procedures of Return of Absentee Ballots**1 MCAR § 2.4201 Mailing or delivering absentee ballot return envelopes.**

C. Designating an agent who shall deliver in person the sealed envelope ~~and completed Agent Appointment~~ to the county auditor or municipal clerk from whom the ballots were received. An agent shall be at least 18 years old. No individual may be designated as the agent of more than three absent voters in any one election.

1 MCAR § 2.4202 Duties of county auditor or municipal clerk upon receipt of Absentee Ballot Return Envelope.

A. Absentee Ballot Return Envelopes which are delivered in person by an absent voter or an agent must be received by the county auditor or municipal clerk by 5 ~~4~~:30 p.m. on the day before election day.

B. Before accepting an Absentee Ballot Return Envelope which is hand-delivered by an absent voter or an agent, the county auditor or municipal clerk shall inspect the envelope to verify that it is sealed and that the Absent Voter's Certificate ~~and any Agent Appointment~~ is properly completed.

2. When an agent hand delivers a sealed envelope with an improperly completed Absent Voter's Certificate ~~or Agent Appointment~~, the agent may return the envelope to the absent voter for correction or completion.

3. When an agent hand delivers an envelope which is not sealed or which the auditor or clerk has reason to believe has been tampered with, the envelope shall not be accepted. The auditor or clerk shall write "Rejected" across the Absentee Ballot Return Envelope and shall write the reason for rejection on the envelope. The Absentee Ballot Return Envelope shall be retained by the auditor or clerk in his office, and shall be destroyed by the auditor or clerk in the presence of the agent. A Notice of Nonacceptance shall be mailed to the absent voter promptly, stating the date of nonacceptance, the name and address of the agent, and the reason for nonacceptance. The absent voter may apply for replacement absentee ballots.

~~C. B-~~ When an Absentee Ballot Return Envelope is hand delivered to the county auditor or municipal clerk by an agent, the auditor or clerk shall compare the absent voter's signature on the Agent Appointment with the signature on the Absent Voter's Certificate. If the signatures are not the same, the auditor or clerk shall not accept the envelope, shall destroy it in the presence of the agent, and shall send a Notice of Nonacceptance to the absent voter. When an Absentee Ballot Return Envelope is hand delivered to the county auditor or municipal clerk by an agent, the agent shall, on a record maintained by the auditor or clerk, print his name and address, the name and address of the absent voter whose ballot he is delivering, and sign his name. The agent shall show to the auditor or clerk identification which contains the agent's name and signature.

~~C.~~ When an Absentee Ballot Return Envelope has been destroyed pursuant to this rule, the auditor or clerk shall indicate on the record of Absentee Ballot Return Envelopes required by 1 MCAR § 2.4204, in addition to the required information, the fact that the Return Envelope was destroyed. The absent voter whose Return Envelope was destroyed may apply for replacement absentee ballots.

1 MCAR § 2.4203 Retaining ballots. A county auditor or municipal clerk who receives an Absentee Ballot Return Envelope in person from an absent voter or an agent may deposit the envelope in the mail or retain it in his office as provided in 1 MCAR § 2.4204; provided, however, that if an auditor or clerk receives the Return Envelope less than three working days before the election on the day before election day, he shall retain the Return Envelope in his office as provided in 1 MCAR § 2.4204; and deliver the Return Envelope to the polling place on election day.

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1 MCAR § 2.4204 Safeguarding procedures. The county auditor or municipal clerk shall establish measures for safeguarding Absentee Ballot Return Envelopes received by him prior to election day.

~~A. 1-~~ If an auditor or clerk intends to deposit Return Envelopes in the mail ~~Return Envelopes received three days or more before an election~~, he shall do so promptly upon receipt of the Return Envelope from the absent voter or agent.

~~B. 2-~~ The auditor or clerk shall establish a record of ~~these~~ Absentee Ballot Return Envelopes which are retained in his office ~~or destroyed pursuant to 1 MCAR § 2.4202~~. The record shall state the absent voter's name, address and precinct number; the agent's name, if any; and the date the ballot was received by the auditor or clerk.

3. Reletter as C.

4. Reletter as D.

B. Reletter as E.

Amendments as Adopted

Chapter Five: 1 MCAR §§ 2.0501-2.0513 Notifications.

1 MCAR § 2.0506

NOTICE OF INEFFECTIVE REGISTRATION

IMPORTANT INFORMATION ABOUT YOUR VOTER REGISTRATION

To: _____

Your Voter Registration cannot be accepted by this office for the following reason(s):

1. Wrong County. Your registration has been forwarded to _____
County.
2. Incomplete: _____

3. Your registration was received fewer than 20 days before the upcoming election. It will be effective on ____/____/____ (day after next election).
4. Minnesota law provides that pre-election day registration for the upcoming ____/____/____ election be received in this office by ____/____/____.

You may register to vote at the polling place on election day by presenting either:

- (a) this mailed notice;
- (b) a valid Minnesota Driver's License, Learner's Permit or receipt for either that contains the voter's valid address in the precinct;
- (c) a Minnesota Identification Card or receipt thereof; that contains the voter's valid address in the precinct;
- (d) a current student identification card that contains the student's valid address in the precinct;
- (e) a current student fee statement that contains the student's valid address in the precinct;
- (f) a copy of a current student registration card that contains the student's valid address in the precinct;
- (g) a registered voter in your precinct who can attest to your address; or
- (h) a valid registration in the same precinct under a different address.

Your Polling Place is _____

(signature) County Auditor ____/____/____
(date)

Chapter Six: 1 MCAR §§ 2.0601-2.0607 Election Day Registration

1 MCAR § 2.0601 Residence. Any person otherwise qualified but not registered to vote in the precinct in which he resides may register

to vote on election day at the polling place of the precinct in which he resides in areas with voter registration. To register on election day a person must complete and sign the original card, sign the duplicate card and provide proof of his residence. A person may prove his residence on election day only by presenting a valid Minnesota Driver's License, Learner's Permit, or receipt for either that contains the voter's valid address in the precinct, a valid Minnesota Identification Card issued by the Minnesota Department of Public Safety or a receipt thereof that contains the voter's valid address in the precinct; a current student identification card that contains the student's valid address in the precinct, a current student fee statement that contains the student's valid address in the precinct, or a copy of a current student registration card that contains the student's valid address in the precinct; by having a valid registration in the same precinct under a different address; by presenting an "ineffective registration notice" mailed by the county auditor or municipal clerk; or by having a person who is registered to vote in the precinct and knows the applicant is a resident of the precinct sign the following oath:

I, _____ swear that I am a registered voter in _____ and that I personally know that _____ is a resident of this precinct.

(name of person registering)

Signature of Registered Voter

Subscribed and sworn to before me

Date

Signature of Election Judge

The above oath shall be attached to the voter registration card until the address of the applicant is verified by the county auditor. The above oaths shall be printed on a 4" x 6" card by the county auditor. After every election day the county auditor shall file the oaths and maintain them for one year.

1 MCAR § 2.0604 Notation. When a voter uses a Minnesota Driver's License, or Minnesota Identification Card or receipt thereof to prove residence when registering on election day, the election judge who is registering voters shall record the number on the card in the "office use only" area of original card.

Department of Transportation Public Transportation Division

Adopted Rules Pertaining to Implementation of the Minnesota Rail Service Improvement Program

The above-captioned rules (14 MCAR §§ 1.4000-1.4005) which were proposed and published at *State Register*, Vol. 4, Number 30, pp. 1193-1198, on January 28, 1980 (4 S.R. 1193) are now adopted, with the following amendments:

Rules as Adopted

14 MCAR § 1.4000 General provisions.

A. Authority. The Commissioner of the Minnesota Department of Transportation is authorized to adopt rules necessary to carry out the provisions of "the Minnesota Rail Service Improvement Act" pursuant to Minn. Stat., 1979 Supp., § 222.50, subd. 3 (d) (~~1979 Supp.~~).

B. Purpose. The purpose of the Minnesota Rail Service Improvement Program and these rules is to improve rail service by providing state funds in a revolving account to be used in conjunction with funds from the Federal Rail Service Continuation Program for the establishment of contracts according to certain guidelines between the state, rail users, and railroads for rail line rehabilitation and other rail service improvement projects.

C. Definitions. The following terms as they appear in these rules shall have the following meanings:

1. "Act" means the Minnesota Rail Service Improvement Act, Minn. Stat. §§ ~~222.48~~ 222.46-222.54.

2. "Bankrupt railroad" means any railroad corporation which has filed a petition in the United States District Court stating that it is insolvent or unable to meet its debts as they mature, and that it desires to effect a plan of reorganization, which petition has been approved by said United States District Court, ~~all within the meaning of 11 U.S.C. § 205(a).~~

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ADOPTED RULES

3. "Capital improvements" means the purchase, rehabilitation, construction or reconstruction of physical facilities or equipment to improve rail service. Operating expenses are not considered capital improvements.
4. "Collateral" means the security pledged for the loan which ~~may~~ shall include ~~but is not limited to~~ land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance, assignment of leases or leasehold interests, and similar kinds of property and property interests.
5. "Commissioner" means the Commissioner of the Minnesota Department of Transportation.
6. "Demonstration project" means an experimental project to improve rail service that has general application within the state but is not traditionally associated with rail transportation.
7. "Department" means the Minnesota Department of Transportation.
8. "Federal Rail Service Continuation Program" means any federal program created under the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210, as amended and as implemented by federal regulations.
9. "Loan" means interest-free money requiring repayment.
10. "Personal guarantee" means an individual or corporate obligation to repay the loan.
11. "Rail line" means railroad roadbeds, right-of-way, track structure and other appurtenances of railroad right-of-way, including, ~~but not limited to,~~ public-use sidings.
12. "Rail user" means any financially responsible shipper, consignor, consignee, or other entity, political subdivisions and their legal entities, that depend upon the movement of goods by rail service and offer financial assistance in improving and maintaining that rail service.
13. "Railroad" means a common carrier by railroad as defined in § 1(3) of the Interstate Commerce Act, 49 U.S.C. § 1(3).
14. "Rail rehabilitation" means the rebuilding of a rail line or portions thereof and/or the implementation of other allied projects that will improve rail service.
15. "State Rail Plan" means the plan prepared and adopted by the department as provided for in the act.
16. "State Rail Service Improvement Account" means the special revenue account created in the state treasury by the act.
17. "Subsidy payments" means the payment for all costs incurred by a railroad which exceed the revenues obtained from operating the line when the line has been abandoned pursuant to Interstate Commerce Commission regulations, 49 CFR 1121. Said costs shall be computed according to Interstate Commerce Commission accounting procedures as set forth in 49 CFR 1121.
18. For purposes of these rules, certain terms shall be interpreted as follows: The word "shall" is mandatory, not permissive; the word "may" is permissive.

14 MCAR § 1.4001 Program criteria, rail rehabilitation.

A. Eligibility.

1. Rail line. A rail line, or portions thereof, ~~that does not meet Class II Track Safety Standards as defined by the Federal Railroad Administration,~~ upon which a train cannot operate safely at 25 miles per hour or that does not have the required structural capacity to support rail cars of 263,000 pounds gross weight, and that is within the physical boundaries of or predominantly serves rail users in Minnesota, is eligible. ~~At the discretion of the commissioner,~~ Rail lines belonging to a bankrupt railroad requiring rehabilitation to allow continued service of statewide significance ~~may~~ shall also be eligible for funding.

2. Project. A rehabilitation project is eligible for funding if an agreement has been negotiated which meets the requirements of the act, these rules and, when federal funds are used, applicable federal laws and regulations.

B. Priority criteria. The following criteria shall be used to establish the priority of projects proposed for funding.

1. The availability of state and federal program funds.
2. The probability of the rail line continuing in profitable service after the project is completed.
3. The costs of the project compared to the benefits resulting from the project.
4. The level of commitment of a railroad and rail users to participate financially in the project.
5. The need for the line as part of the overall rail system.

C. Standards and phasing.

1. Rail line rehabilitation shall be performed to the extent that it allows the use of 263,000 pounds gross weight railroad cars and ~~meets Federal Railroad Administration Class II Track Safety Standards~~ that it allows trains to operate safely at 25 miles an hour or

more. The commissioner ~~may~~ shall approve rehabilitation to a higher ~~Federal Railroad Administration Track Safety Standard~~ standard if it is necessary for providing a required level of service.

2. Rehabilitation may be accomplished in separate stages if the final result meets the standards of number 1., above.

D. Project funding.

1. For rail line rehabilitation and related projects on lines not ~~owned by bankrupt railroads,~~ included in section D. 2. of this rule, the division of costs shall be by the following formula:

a. ~~The commissioner may make a~~ A grant or interest-free loan or combination thereof of state and federal funds shall be made by the commissioner of up to 90% of the total cost of a project. In no event shall the grant exceed 60% of the project cost.

b. Rail users shall loan the railroad a minimum of 10% of the cost of a project.

c. The railroad shall furnish a minimum of 20% of the cost of a project, and shall repay all loans from the rail users and the state.

2. If a rehabilitation project is on a rail line owned by a bankrupt railroad, previously owned by a bankrupt railroad, or a rail line has been abandoned under Interstate Commerce Commission regulations, 49 CFR 1121, the division of costs shall be by the following formula:

a. ~~The commissioner may make a~~ A grant or interest-free loan or combination thereof of state and federal funds shall be made by the commissioner of up to 90% of the total cost of a project. ~~In no event shall the grant exceed 60% of the project cost.~~

b. Rail users shall loan the railroad a minimum of 10% of the total cost of a project.

c. The railroad ~~may be required to~~ shall furnish a portion of the cost of the project if its financial circumstances permit and shall repay all loans from the rail users and the state.

3. In-kind participation. Participation in a contract by any party may include, ~~but not be limited to,~~ non-monetary contributions such as materials, labor, land or other kinds of contributions if agreed to by all parties ~~of~~ to the contract. The amount and fair market value of all in-kind participation shall be clearly defined in the contract.

E. Repayment requirements.

1. The railroad shall reimburse the rail users for funds loaned to it in accordance with a formula based on usage of the line, or a pre-determined fixed amount. Repayments shall be made on a quarterly basis. The terms of repayment shall be sufficient so as to assure repayment in ten years or less.

2. The railroad shall repay the commissioner for funds loaned to it at a pre-determined fixed amount on a quarterly basis. The repayment shall commence upon completion of the requirement to repay the rail users, and extend over a period not to exceed ten years.

3. The rehabilitation contract shall provide for an extension of time in the event of any cessation or reduction of service unless such cessation or reduction is the result of no demand for service.

14 MCAR § 1.4002 Program criteria—post abandonment rail line subsidy programs.

A. Eligibility. ~~If a~~ A rail line that is eligible for subsidy payments under the Federal Rail Service Continuation Program ~~it may also be considered~~ is eligible for funding under the Minnesota Rail Service Improvement Act.

B. Project funding.

1. The ~~commissioner may provide~~ combined state and federal operations subsidy payments ~~of~~ shall be up to 90% of the operational subsidy costs- on those lines having priority for funding. In no event shall the state and federal operational subsidy payment exceed an amount equal to the amount of the railroad's retained revenue on the line.

2. Rail users shall provide a minimum of 10% of the operational subsidy cost plus any other operational subsidy cost not covered by state and federal operational subsidy payments.

3. Rehabilitation which ~~may be~~ is eligible under federal regulations and which is performed in conjunction with operational subsidy payments shall conform with 14 MCAR § 1.4001.

C. Priority criteria. The following criteria shall be used to establish the priority of projects eligible for subsidy payments:

1. The availability of state and federal funds.

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ADOPTED RULES

2. The probability of the rail line becoming profitable upon completion of the project.
3. The costs of the project compared to the benefits resulting from the project.
4. The commitment of rail users to provide their share of the project funding.

14 MCAR § 1.4003 Program criteria—capital improvement projects.

A. Eligibility.

1. The commissioner ~~may~~ shall provide interest-free loans from the Minnesota Rail Service Improvement Account for up to 100% of the cost of a rail transportation related capital improvement project under the following conditions:

- a. State funds are available.
- b. The capital improvement is directly related to an overall rail line rehabilitation acquisition, or operational subsidy project.
- c. The capital improvement project will strengthen the financial condition of the associated rail line.
- d. The state's interests are protected by sufficient collateral or personal guarantees acceptable to the commissioner.
- e. The commissioner shall be repaid for funds loaned at a pre-determined fixed amount payable quarterly over a period not to exceed ten years.

2. The commissioner ~~may~~ shall provide a grant from the Minnesota Rail Service Improvement Account of up to 50% of the total cost of a capital improvement project if said capital improvement is a demonstration project as defined in these rules, and if the following conditions are met:

- a. State funds are available.
- b. The project demonstrates unique methods of using rail service or alleviating the impact of abandonments that is not in common usage throughout the rail industry or that has not been previously funded under this program.
- c. The general likelihood that a similar project can be instituted in other locations without the need for public financing.
- d. The project includes two or more participant rail users.
- e. The benefits resulting from the project exceed the costs of implementing the project.

14 MCAR § 1.4004 Administration of the Minnesota Rail Service Improvement Program.

A. Provision of information. The railroad and rail users shall provide the commissioner any pertinent information necessary to achieve proper evaluation and adequate administration of any project under this program. Said information shall include ~~but not be limited to~~ financial data, commodity data, cost data of the project, ~~and~~ operations information and similar types of data and information.

B. Contracts. Executed contracts shall be the documents used to commit funds and implement projects. Contracts shall include ~~but not be limited to~~ the following items:

1. The description of and the location of the project.
2. The appropriate plans, standards, specifications, estimated costs, work schedule and completion date.
3. The level of service the railroad will provide during the effective rehabilitation or operations subsidy period, pursuant to applicable Interstate Commerce Commission regulations.
4. Assurances by the railroad that rail line maintenance will be performed during the period of operational subsidy or rehabilitation contract.
5. Provisions for auditing by the commissioner.
6. The requirement to comply with all applicable federal regulations when federal funding is involved in the project.
7. The duration of the contract.
8. Maintenance and availability of records and audits.
9. Payment and repayment schedules when appropriate.
10. The amount of funds and any in-kind participation by each party.
11. Method of administering the contract.
12. A provision for appropriate recapture of state and federal funds.

C. Exceptions. In the event of unusual circumstances, exceptions to these rules ~~may~~ shall be made for any particular contract if agreed to by all parties. No exception shall be made if such exception would preclude the equal treatment of competing projects.

14 MCAR § 1.4005 Disclosure of information concerning railroad data.

A. Confidential information defined. Information is deemed to be confidential for the purpose of these rules when the information collected contains shipping data or commercial or financial information which is required to be kept confidential by the provisions of 49 U.S.C. § 11910~~r~~, which reads as follows:

49 U.S.C. § 11910. Unlawful disclosure of information

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this subtitle without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than \$1,000.

(2) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this subtitle without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(3) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, receiver, trustee, lessee, agent, or employee of that carrier, or another person authorized by that carrier or person to receive information from that carrier, that knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee, shall be fined not more than \$2,000. Trial in the judicial district in which any part of the violation is committed.

(4) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, or another person authorized by that freight forwarder, or person to receive information, who knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than \$100 for the first violation and not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b) This subtitle does not prevent a carrier or broker providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Commission delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Commission, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

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ADOPTED RULES

B. Provision of information.

1. The commissioner shall direct all requests for information under the authority of the act to the corporate office of the railroad company. Such requests shall specify the kind of information, the level of detail, the format to be used, and the required date of submittal.

2. Within 20 days from the receipt of the request, the railroad company may if necessary apply for a revision of the time schedule for preparing the information. The commissioner shall approve or disapprove such revision requests within 20 days of the receipt of such requests.

3. If the requested information is not received within the time schedule, the commissioner may make a final demand. The final demand shall be in writing and sent by certified mail to the corporate office of the railroad company. If the information is not received within 60 days of the receipt of the final demand, the commissioner may issue a subpoena to compel production of the information.

~~4. If the provision of required information results in substantial and unusual costs for the railroad company, it may petition the commissioner for reimbursement of such costs in conjunction with providing the information. Cost shall not be a legitimate reason for refusing information.~~

C. Use of confidential railroad data. Railroad data entrusted to the department will be used only by department personnel or the authorized agents of the department to implement the purpose set forth in the act.

D. Release of information. Information intended for the restricted use of department personnel will be furnished to persons outside the department only in the following circumstances:

1. The railroad gives written approval to the commissioner to make the information public.
2. The information has already been made public by the action of the railroad or other public authority.
3. The information is aggregated at a sufficient level to obscure the shipping information specific to any individual rail user.

SUPREME COURT

Decisions Filed Thursday, July 3, 1980

Compiled by John McCarthy, Clerk

50270/110 Debra Burch Hennekens vs. All Nation Insurance Company, Appellant, Mutual Service Casualty Insurance Company. Ramsey County.

Affirmed. Sheran, C. J.

50355/208 Twin City Federal Savings and Loan Association vs. John A. Cochrane, et al, Appellants. Ramsey County.

When the parties agree that, in the event of a foreclosure by advertisement, the mortgagor will pay the maximum attorneys fees permitted by law, fees computed in accordance with the schedule contained in Minn. Stat. § 582.01, subd. 1 (1978) are reasonable as a matter of law.

The trial court has authority to award reasonable fees to the mortgagee's attorney for services performed to enforce an assignment of rents as long as they are different from those performed to effectuate the foreclosure by advertisement.

Affirmed. Sheran, C. J.

50359/156 City of Little Falls vs. Edwin George Witucki, petitioner, Appellant. Morrison County.

Extremely abusive, vulgar, and offensive language hurled at a bartender by a customer constituted fighting words such that the customer's conviction for disorderly conduct is not an unconstitutional infringement of his right of free speech.

Affirmed. Otis, J.

49855/441 Charles E. Stadler, et al, Appellants, vs. Harry E. Cross, Jr., et al. Rice County.

Where bystanders are not within the zone of danger of physical contact, are not reasonably in position to fear for their own safety, and do not fear for their own safety, they cannot recover damages for their own personal injury caused by witnessing the peril of or injury to another who is imperiled or injured by the acts of a negligent tortfeasor.

Affirmed. Otis, J.

48740/20 Ralph C. Anderson vs. City of Bemidji, Appellant. Beltrami County.

Minn. Stat. § 429.061 (1978) does not give a city council authority to defer one-half of a special assessment until a later date; only the entire assessment may be deferred.

Where the city presented expert testimony demonstrating a reasonable basis for assessing plaintiff's property for a sanitary sewer along the longer side of the property, despite the fact that no other lot in the area was assessed along its longer side, and where plaintiff presented no evidence rebutting the city's reasoning, the trial court erred in finding that the assessment was not uniform as to plaintiff's property under Minn. Const. art. 10, § 1.

Reversed. Peterson, J. Took no part, Todd, J.

50342/201 Republic National Life Insurance Company, Appellant. vs. Marquette Bank & Trust Company of Rochester. Olmsted County.

Where defendant bank gave valid notice of exercise of its continuing option to purchase a building, but the resulting bilateral purchase contract was void and unenforceable under Minn. Stat. § 48.21 (1978), *held*, the option was not extinguished where it is possible that at some future date before the expiration of the option period the bank will be able under § 48.21 to purchase the building.

Refusal by the bank to perform a void purchase contract was not evidence that the bank intended to abandon its continuing option to purchase at some future date.

Section 48.21 does not prohibit a bank from entering into a contract for a continuing option to purchase a building even though the bank could not legally purchase the building at the time the option contract was executed.

Affirmed. Peterson, J.

50379/265 Blair Wolfson vs. Normand Beris, Appellant, Employment Advisors International, Inc. Hennepin County.

It was not clearly erroneous for the trial court, acting as finder of fact, to find that a real estate agent who finds a buyer for property listed in the Commercial Multiple Listing Service, refers the buyer to the seller's real estate agent, shares the sales commission with the seller's real estate agent, and seeks no compensation from the buyer is a subagent of the seller.

Agent's failure to have written authorization from his principal to contract for the sale of land in violation of the statute of frauds does not preclude a suit by the buyer against the agent for breach of warranty of authority to sell real estate.

The cause of action for breach of warranty of authority to contract can only exist if the parties purport to have made a legally binding contract.

A successful plaintiff in a suit for breach of warranty of authority to contract is entitled to damages equal to the benefit of the bargain for which he thought he had contracted.

The judgment is affirmed, the award of damages is vacated, and the case is remanded for a new damages award determination made in accordance with this opinion. Todd, J.

50972, 50973/Sp. State of Minnesota vs. David Lee Milton, Appellant. Ramsey County.

The record on appeal contains a sufficient basis for concluding that defendant's guilty pleas were voluntarily and intelligently entered.

Affirmed. Yetka, J.

49750/23 State of Minnesota vs. Jerry Dean Austin, Appellant. St. Louis County.

The appellant has failed to prove that the trial court clearly abused its discretion by revoking his probation. The oral instructions he received from the court were adequate to warn him of what activities would warrant revocation. A reasonable probationer would have understood from his probation officer's orders that he was to either remain at the drug treatment program or return to the jail. Finally, although the constitution requires sufficient notice of the grounds for revocation, appellant's failure to raise the adequacy of the notice at trial bars him from raising it on appeal for the first time.

Affirmed. Yetka, J. Dissenting, Otis, J., Rogosheske, J., and Wahl, J.

40368/111 Herbert A. O'Brien, et al., Appellants, vs. Lillian Wendt, et al. Warren LaPanta, et al. Cook County.

The trial court erred in granting a new trial in this case.

Reversed and remanded. Yetka, J. Took no part, Todd, J.

50465/297 State of Minnesota vs. Michael Anthony Terry, Appellant. Ramsey County.

Trial court did not violate defendant's right to a speedy trial by granting a prosecution motion for a continuance.

Evidence held sufficient to support conviction of defendant for receiving or concealing stolen property, Minn. Stat. § 609.53, subd. 1(1) (1978).

Affirmed. Yetka, J.

SUPREME COURT

50783/301 Eleanor J. Hafner, petitioner, Appellant, vs. Donald S. Hafner. Ramsey County.

Antenuptial contracts are viewed with favor by the law, and even though appellant was not told of her rights in the absence of an antenuptial contract, the agreement was nevertheless valid where the record discloses that she was aware of and freely acceded to the respondent's desire to leave his property to his children.

Where the agreement is clear and unambiguous that each was to hold and dispose of their respective property "as if no marriage had been consummated between them," such agreement is controlling upon dissolution and does not apply only in the event of death as claimed by appellant.

Affirmed. Scott, J. Concurring specially, Kelly, J.

50301/146 Steven G. Paradise, Appellant, vs. The City of Minneapolis, et al. Hennepin County.

The trial court erred in dismissing the complaint where the evidence presented by plaintiff provides a basis upon which a jury could reasonably conclude that defendant officers applied excessive force in arresting and detaining plaintiff.

Reversed and remanded. Wahl, J.

50688/295 State of Minnesota vs. Mary Ellen Andries, Appellant. Cook County.

Search pursuant to warrant issued over telephone did not violate defendant's Fourth Amendment or statutory rights where the issuing judge fully complied with the requirements of the relevant statutes except that he did not personally sign the warrant but instead delegated that act to the applicant.

Affirmed. Wahl, J.

50170/284 State of Minnesota vs. Darrell Alvin Johnson, Appellant. Hennepin County.

All allegedly erroneous evidentiary rulings of the trial court were, if error at all, harmless beyond a reasonable doubt.

Affirmed. Per Curiam.

51267/316 In the Matter of the Application for the Discipline of Paul A. LaRocque, an Attorney-at-Law of the State of Minnesota. Supreme Court.

In the disciplinary proceedings, the court approves a stipulation between the Lawyers Professional Responsibility Board and the respondent whereby the respondent is suspended from the practice of law indefinitely with a right to apply for reinstatement upon proof that he is psychologically fit to practice law and subject to other conditions.

Respondent ordered suspended indefinitely. Per Curiam.

49622/292 State of Minnesota vs. Thomas Edward Lynch, Appellant. Hennepin County.

Evidence of defendant's guilt was sufficient, prosecutor did not commit prejudicial misconduct, and defense counsel adequately represented defendant.

Affirmed. Per Curiam.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Agriculture Planning and Development Division

Notice of Request for Proposals for Consultant Services

The Planning and Development Division, Minnesota Department of Agriculture, is seeking a qualified consultant to design a comprehensive energy audit program to assess the on-farm energy use in agriculture. The project should include but not be limited to the following:

- A. Conceptual design: Includes definition of the problem, identification of the issues involved, development of hypotheses to be tested and development of a methodology for implementation of an audit program.
- B. Literature review: Collection and reviewing of studies that have been done of a similar nature relating to energy use and/or audits of energy use in agriculture. Preparation of a bibliography.
- C. Data analysis: Analysis of the needs of potential users of agricultural energy data and identification of key data sources that could provide that information.
- D. Methodology design: Development of a method to collect necessary agricultural energy information.

More details are outlined in the Request for Proposal (RFP) Statement of Work. The formal RFP may be requested from and inquiries directed to:

Jane Harper
Planning and Development Division
Department of Agriculture
90 West Plato Boulevard
Saint Paul, Minnesota 55107
(612) 296-1488

It is anticipated that the total cost would not exceed \$20,000.00 and that the project could be completed within three months. The deadline for submission of completed proposals will be 4:30 p.m., September 12, 1980. The awarding of the contract will be subject to the availability of funds.

Department of Agriculture Plant Industry Division

Notice of Request for Proposals for Advertising Services

The Plant Industry Division, Department of Agriculture, is seeking a consultant to provide advertising services under contract as follows:

1. To promote the quality of Minnesota Certified Seed Potatoes and thus increase the demand and sales of same through advertising promotion in various printed media, including various potato oriented publications throughout the country;
2. To develop and implement, upon review and approval of the department, an advertising campaign to accomplish objective #1.

The selected consultant will be paid up to \$18,600 for services rendered. The actual contract payment will be based upon the actual services performed. The contract will be for October 1, 1980 through June 30, 1981.

Proposal submissions will be accepted until 4:30 p.m. on September 15, 1980. The formal RFP may be requested from and other inquiries may be made to:

Jerome Jevning, Supervisor
Seed Potato Certification
90 West Plato Blvd., Room 226
St. Paul, Minnesota 55107
(612) 296-0592

Office of the State Auditor

Notice of Availability of Contract for Accounting Services

The Office of the State Auditor requires the services of a private accounting firm to audit Washington County for the periods ending December 31, 1978, December 31, 1979 and December 31, 1980. The contract amount is estimated to be over \$10,000.

One report covering the period will be required and work must be performed in accordance with generally accepted auditing standards.

Firms desiring consideration should submit letters of interest prior to August 11, 1980. Letters should include resumes indicating similar experience.

This is not a request for proposals. Send response to:

Frederic E. Boethin
Office of the State Auditor
Veterans Service Building
20 West 12th Street
St. Paul, Minnesota 55155
(612) 296-7979

Department of Corrections Incest Offender Treatment Program

Notice of Request for Proposals for Professional/Technical Services Contracts

The Incest Offender Treatment Program was initiated by the Minnesota Department of Corrections through a grant of the Crime Control Planning Board to address the issues, problems, and needs of professionals in the social services and the criminal justice system regarding the problem of family sexual abuse (incest).

A major goal of the project is to facilitate the treatment of incest offenders and their family members. Toward this end, the project has allocated funds to pay for the treatment of adjudicated offenders and their families, especially the victims, when other financial means are lacking or inadequate. These funds might be used to augment other payment options or to pay for the total costs of treatment.

In order for these funds to be dispersed, this program is required to directly contract with service providers for specific services. This year it is our intention to contract with a number of treatment providers in order to insure a full range of treatment options.

Since not all service providers are likely able to meet all service needs, we have broken down the services into three major areas. Individual organizations may propose bids for any or all of the service categories. These three services needed are as follows.

1. *Assessment*—Must be able to do comprehensive psychological assessments of the incest offender and/or family members that involves psychological testing and interpretation, social histories, sexual histories, and prognosis for treatment. These assessments must be acceptable as psychological evaluations for pre-sentence investigation reports. It is assumed that the assessment may involve multiple interviews as well as testing.

2. *Individual Therapy* (whole family need not be involved)—Must be able to perform individual and/or group psychotherapy for the incest perpetrator, victim, siblings, or mother. Treatment plans, case notes, and periodic progress reports must be completed for each client. It is preferable that programs be able to meet the needs of younger children (ages 6-12) as well as adolescents and be able to provide services for male victims.

3. *Comprehensive Family Treatment* (family as the unit of treatment)—In recognizing the special family dynamics that exist in incestuous family systems, the program is committed to providing comprehensive family treatment when this is deemed advisable and practical. A comprehensive family treatment program would minimally include a family assessment component; group therapy for the offender, non-offending parent, and victims; and family therapy. A multiple family or "community" component that aims at family education and/or socialization is also advisable.

Other General Requirements

1. *Chemical Dependency*—Since chemical dependency is a factor in a large proportion of incest families, it is important that agencies or programs have a thorough understanding of chemical dependency and have some capacity to diagnose such conditions. While it is not necessary that organizations be able to provide chemical dependency treatment, it would be expected that an effective referral process be developed.

2. Contractor will maintain complete records on *program* clients including but not limited to psychological evaluations, dates, times, and type of services provided, treatment plans, progress reports, and summaries. These records will be made available to the

program director on request. In addition, the contractor must comply with the provisions of the Data Privacy Act and must treat such records as confidential.

3. *Billing*—Agencies must be willing to submit bi-weekly statements indicating services performed and charges. State forms will be provided.

Please specify a per hour rate for various therapeutic modalities (i.e., \$45 per hour: individual psychotherapy). It would also be helpful to estimate the total cost of treatment for an offender, victim, mother and/or total family and/or the total projected cost of an assessment.

Direct inquiries to Michael O'Brien, Director of the Incest Offender Treatment Program, 430 Metro Square Building, St. Paul, Minnesota 55101, (612) 296-0154.

Proposals for the above listed contracts must be submitted no later than July 31, 1980.

Department of Public Welfare Willmar State Hospital

Notice of Request for Proposals for Services to be Performed on a Contractual Basis

Notice is hereby given that the Willmar State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period September 1, 1980 through June 30, 1981; these services to be performed as requested by the Administration of the Willmar State Hospital:

Services of psychiatrist, trained in general psychiatry, to provide consultation to newly admitted mentally ill and chemically dependent patients; also, related educational guidance to staff personnel. The estimated amount of the contract will not exceed \$14,000.

Responses for the above services must be received by August 18, 1980. Direct inquiries to:

Mae Forstrom, Accounting Officer
Willmar State Hospital
Box 1128
Willmar, MN 56201
(612) 235-3322, Ext. 396

Transportation Department Brown County and Nicollet County Highway Departments

Notice of Availability of Contract for Bridge Replacement Preliminary Engineering and Environmental Studies

The Brown County Highway Department and the Nicollet County Highway Department in cooperation with the Office of State Aid, Minnesota Department of Transportation, requires the services of a qualified consultant to provide preliminary engineering and environmental study for replacement of bridges over the Minnesota River between State Highway No. 4 and State Highway No. 15.

The services shall consist of providing an updated Project Development Report, Location Study, Preliminary Location Study Report, Draft EIS, Final EIS, Location Study Report, Design Study, Preliminary Design Report, Design Study Report, and Preliminary Plans.

Firms desiring consideration should submit their brochure and/or experience resume such as the federal forms 254 and 255 within 21 days. This is not a request for a proposal.

Please send your response to:

James F. Sommer
Brown County Highway Engineer
1901 N. Jefferson Street
New Ulm, Minnesota 56073
Telephone—(507) 354-2313.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration Cable Communications Board

Invitation to Comment on Proposed Cable Service Territory Expansion of the Anoka, Champlin and Ramsey Territory to Include Andover before September 12, 1980

On June 12, 1980, the City of Andover, a Minnesota municipality, proposed expansion of the Anoka, Champlin and Ramsey cable service territory (CST) to include the corporate limits of the City of Andover.

The communities have already responded to the board's offer of counsel and advice during the period of the board's consideration of the proposed expanded CST.

On September 12, 1980, the board must make its decision to approve, reject, or delay consideration of the CST expansion proposal. Prior to that date, the Cable Board will continue to seek written comments from parties interested in the proposed CST expansion—not only from municipalities included within the established CST, the proposed expanded area and municipalities which may wish additionally to be included, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The Cable Board will set aside a portion of its August 8, 1980 meeting (which convenes at 9 a. m. at the address given below) in order to hear public comments on the proposed expanded cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, St. Paul, Minnesota 55103.

Invitation to Comment on Proposed Cable Service Territory for the Municipalities of Orono, Long Lake and Minnetonka Beach

On May 20, 1980, Mickelson Media, Inc., proposed a cable service territory (CST) consisting of the corporate limits of Orono, Long Lake and Minnetonka Beach.

On September 12, 1980, the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The board will set aside a portion of its August 8, 1980 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103.

Invitation to Comment on Proposed Cable Service Territory for Chaska and Carver

On May 30, 1980, the City of Chaska, a Minnesota municipality, proposed a cable service territory (CST) consisting of the corporate, limits the City of Chaska and Carver, Chaska Township, and portions of sections in T 116, R 24.

On September 12, 1980, the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The board will set aside a portion of its August 8, 1980 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103.

Invitation to Comment on Proposed Cable Service Territory for the Municipalities of Minnetrista, Mound, Spring Park and St. Bonifacius

On May 20, 1980, Mickelson Media, Inc., proposed a cable service territory (CST) consisting of the corporate limits of Minnetrista, Mound, Spring Park and St. Bonifacius.

On September 12, 1980, the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The board will set aside a portion of its August 8, 1980 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103.

Invitation to Comment on Proposed Cable Service Territory for the Metro Suburban Area Municipalities of West St. Paul, South St. Paul, Inver Grove Heights, Sunfish Lake, Mendota Heights, Mendota, Lilydale and Eagan

On June 9, 1980, the City of South St. Paul, a Minnesota municipality acting on behalf of adjacent communities, proposed a cable service territory (CST) consisting of the corporate limits of the above-named eight municipalities.

On September 12, 1980, the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The board will set aside a portion of its August 8, 1980 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103.

Invitation to Comment on Proposed Cable Service Territory for the City of Hastings and Portions of Marshan Township

On May 20, 1980, Mickelson Media, Inc., proposed a cable service territory (CST) consisting of the corporate limits of the City of Hastings and portions of Marshan Township.

On September 12, 1980, the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The board will set aside a portion of its August 8, 1980 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103.

**Department of Administration
Cable Communications Board****Notice of Solicitation of Outside Opinion Regarding A Petition from the Minnesota Broadcasters Association for Amendment and Repeal of Rules Governing Broadcast Station Ownership of Cable Communications Systems**

Notice is hereby given that outside opinion in the above-entitled matter is being solicited by the Minnesota Cable Communications Board pursuant to 4 MCAR § 4.006 of the board rules.

The board will conduct public hearings concerning the petition during its regular meetings on August 8, 1980 and on September 12, 1980. Both meetings are scheduled to convene at 9 a.m., 500 Rice Street (at University Ave.), St. Paul.

Written comments may be submitted to the board at 500 Rice Street, St. Paul, MN 55103.

All interested or affected persons will have an opportunity to participate.

OFFICIAL NOTICES

The Minnesota Broadcasters Association is petitioning the board for amendment of 4 MCAR § 4.100 A. (underlining indicates petitioner's proposed additions to existing rule language, and ~~strike-outs~~ indicate petitioner's proposed deletions from existing rule language):

4 MCAR § 4.100 Certain ownership prohibited. None of the following shall directly or indirectly own, operate, control or have a legal or equitable interest in a cable communications system:

A. A television broadcasting station ~~whose predicted Grade B contour, computed in accordance with section 73.684 of which is prohibited from cross-ownership pursuant to the Federal Communications Commission's rules and regulations, overlaps in whole or in part the service area within the system is serving subscribers~~; or

and for repeal of 4 MCAR § 4.100 F:

4 MCAR § 4.100 F. ~~A radio or television broadcast station, broadcasting from within the Twin Cities metropolitan area as designated in Minn. Stat. § 473.121, Subd. 4 (1976).~~

Notice of Solicitation of Outside Opinion Regarding a Petition from the Minnesota Newspaper Association for Repeal of Rules Governing Newspaper Ownership of Cable Communications Systems

Notice is hereby given that outside opinion in the above-entitled matter is being solicited by the Minnesota Cable Communications Board pursuant to 4 MCAR § 4.006 of the board rules.

The board will conduct public hearings concerning the petition during its regular meetings on August 8, 1980 and on September 12, 1980. Both meetings are scheduled to convene at 9 a.m., 500 Rice Street (at University Ave.), St. Paul.

Written comments may be submitted to the Board at 500 Rice Street, St. Paul, MN 55103.

All interested or affected persons will have an opportunity to participate.

The Minnesota Newspaper Association is petitioning the board for repeal of 4 MCAR § 4.100 E. (~~strike-outs~~ indicate petitioner's proposed deletions from existing rule language):

4 MCAR § 4.100 Certain ownership prohibited. None of the following shall directly or indirectly own, operate, control or have a legal or equitable interest in a cable communications system:

E. ~~A publisher and/or owner of a newspaper company within the primary market area, as defined by the Audit Bureau of Circulation, served by the newspaper.~~

Department of Agriculture Agronomy Services Division

Notice of Special Local Need Registration for Top Cop with Sulfur

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on July 11, 1980, issued a Special Local Need Registration for Top Cop with Sulfur manufactured by Stoller Chemical Company, Inc., Houston, Texas.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need registration permits the use of this pesticide to control rust and halo blight on dry beans.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 90-0013) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
Phone: (612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and

when it is deemed in the best interest of the environment or the health, welfare and safety of the public, the Commissioner of Agriculture shall order a hearing, pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending or upholding this registration.

July 16, 1980

Mark W. Seetin
Commissioner of Agriculture

Environmental Quality Board Power Plant Siting Program

Notice of Request for Nomination and Application for the 1980-1981 Power Plant Siting Advisory Committee

The Minnesota Environmental Quality Board is seeking nominations and applications for its 1980-1981 Power Plant Siting Advisory Committee. Nominations and applications should be received no later than September 1, 1980. The board will select 30 members to serve on the committee until June 30, 1981. Basic staff support for the committee will be provided by Power Plant Siting Program personnel, who will arrange for additional staff support from other state agencies and private sources as necessary.

The committee will consider ways of better coordinating the power plant siting and transmission line routing processes with the Certificate of Need process administered by the Minnesota Energy Agency and will provide advice on board testimony concerning the need for new electric energy facilities that the board has siting authority over. The committee will also provide advice on obtaining adequate citizen participation in energy facility siting decisions.

It is expected that the committee will have about eight day-long (Saturday) meetings and some evening meetings. All committee members will be compensated for expenses. (According to state law, no officer, agent, or employee of a utility may serve on this committee.)

A brief description of the nominee's or applicant's background and a complete address and telephone number should be included with each application and/or nomination.

Applications and nominations should be sent to Arthur E. Sidner, Chairman, Minnesota Environmental Quality Board, 550 Cedar Street, St. Paul, Minnesota 55101.

For more information concerning the board charge to the committee or any other matter related to the committee's responsibilities contact Sheldon Mains, Room 15, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota. Telephone (612) 296-2757.

Ethical Practices Board

Notice of Meeting

Date: Friday, August 1, 1980

Time: 9:00 a.m.

Place: Room 57, State Office Building

Preliminary Agenda

1. Minutes (May 30, June 6, July 9)
2. Chairperson's Report
3. Legal Counsel Report
4. Advisory Opinion #63—Americans for Democratic Action—Independent Expenditures
5. Advisory Opinion Request #69—Hennepin County Commissioner Kremer—Securities Definition, Hennepin County
6. Goals and Objectives—Fiscal Year 1981
7. Budget Review—Fiscal Year 1982-83
8. Executive Director's Report
 - a) Financial Report
 - b) Late Filing Waiver Requests
9. Other Business

**Department of Health
Special Supplemental Food Program for Women, Infants, and
Children (WIC)**

Notice of Availability of Grants

Purpose and Eligibility

In preparation for the federal Fiscal Year 1981 funding cycle, the Minnesota Department of Health requests that all parties interested in initiating a Special Supplemental Food Program for Women, Infants, and Children (commonly referred to as the WIC Program) contact the Minnesota Department of Health within 30 days.

The WIC Program is a federally funded grant program administered through the Minnesota Department of Health. Grants are made available to qualified local agencies to establish the program, which provides vouchers for the purchase of specified nutritious food supplements and nutrition education services to pregnant, post-partum, and nursing women, and to infants and children up to five years of age who are judged by health professionals to be at nutritional risk and who have family incomes at or below 195 percent of the United States Department of Agriculture Secretary's income poverty guidelines.

The types of local agencies which may apply are listed as follows in order of their priority for application approval as established by Federal Rule:

1. First consideration is given to a public Community Health Services Agency which can provide health and administrative services.
2. Second consideration is given to a public or private nonprofit health or human service agency which can provide health and administrative services.
3. Third consideration is given to a public or private, nonprofit health or human service agency which must enter into a written agreement with another such agency for either health or administrative services.
4. Fourth consideration is given to a public or private, nonprofit health or human service agency which must enter into a written agreement with a private physician in order to provide health services to a specific category of participants—women, infants, or children, or to participants not eligible for health services at the local agency due to family income which exceeds the standards for health services as established by the local agency.
5. Fifth consideration is given to a public or private, nonprofit service agency which must enter into a written agreement with a private physician to provide health services.

Effect of Grant Rules

These grants are subject to provisions of Minnesota Department of Health Rules 451-460.

How to Apply for Funds

A local agency which provides ongoing health services to women, infants, and children and is capable of administering the WIC Program should contact in writing the WIC Program Administrator, Minnesota Department of Health, 717 SE Delaware Street, Minneapolis, Minnesota, 55440, within 30 days of this notice. Agencies expressing an intent to apply will be promptly provided a WIC Program preapplication packet, which includes general program information and an application form with completion instructions.

It should be noted that the WIC application form has been substantially revised. Consequently, any interested parties who have requested and received an application form (dated 5-79) prior to the date of this notice should request a copy of the revised form.

An applicant agency will be informed of the status of the application within thirty (30) days of its receipt by the department. The approval process includes consideration of comments prepared by the appropriate Regional Development Commission, Health Systems Agency and local Community Health Services (CHS) agency if the applicant is other than a CHS agency. Grants will be awarded in keeping with the agency priority system as listed above, the relative need of the applicant's intended service area as determined by the Affirmative Action Plan in the Minnesota State Plan of Program Operation and Administration for the WIC Program, and the receipt of funds from the United States Department of Agriculture. Further information regarding the program and application procedure may be obtained by contacting Greg Smith, Minnesota Department of Health, (612) 296-5233.

Duration of Funds

Funds for approved grants for these purposes will be available for October 1, 1980 through September 30, 1981. Accordingly, applications for these funds must be received on or prior to September 30, 1980.

State Board of Investment

Notice of Intent to Solicit Outside Information Regarding Agency Report on Investments Pursuant to Laws of 1980, ch. 607

Laws of 1980, ch. 607, Art. XIV, § 24, requires the Executive Director of the State Board of Investment to prepare a report analyzing whether or not increased portions of the funds under the investment control of the board could be invested in ways directly beneficial to all Minnesotans and be consistent with the standard of care set forth in the statute for the board. The report shall assess the policy desirability of these increased investments.

The board invites interested persons or groups to submit written data, information or comments on the subject. All written materials should be directed to:

Teresa Myers
 State Board of Investment
 MEA Building—Room 105
 55 Sherburne Avenue
 St. Paul, Minnesota 55155

All statements of information or comments must be received by September 19, 1980. Any written material submitted to the board will become part of the public record.

Department of Natural Resources

Notice of and Order for Hearing In the Matter of Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Nobles County

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1979) will be held in Nobles County Government Center, Board Room, Worthington, Minnesota, on August 20, 1980, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Marvel J. Tripp, 1422 S. Shore Drive, Worthington, MN 56187, Department of Natural Resources representative Paul Hansen, and Nobles County Soil and Water Conservation District representative Gilbert Metz, Lismore, MN 56155.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § Section 105.391 (1979) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1979):

A. Public Waters

1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
53-9 : Woolstencroft Marsh	32	102	39
53-18: Kinbrae Slough	11, 14	104	39
53-22: Fury Marsh	22	104	39
53-26: Gilstead Marsh (Peterson)	21, 22	101	40
53-27: Wachter Marsh	23	101	40
53-31: Sieverding Marsh	2	104	40
53-32: Bigelow Slough	31; 36	101	40; 41
53-33: Herlien-Boote Marsh	6, 7; 1, 12	102	40; 41
53-37: Groth Marsh	2 NE	103	41
51-48: Willow Lake	5	104	41

2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed	34	101	43	32	101	43
Unnamed tributary	24	101	43	21	101	43
Unnamed trib. to above	SE 13	101	43	22	101	43
Unnamed tributary	10	101	43	20	101	43
Unnamed tributary	4	101	43	30	101	43

OFFICIAL NOTICES

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed tributary	1	101	43	7	101	43
Unnamed tributary	30	102	42	31	102	43
Unnamed tributary	19	102	42	13	102	43
East Branch Kanaranzi Creek (KC)	5	102	41	5	102	42
Unnamed tributary	22	102	42	9	102	42
Unnamed tributary	17	102	41	5	102	41
	(Interstate 90)					
Unnamed tributary	7	103	41	32	103	41
Unnamed tributary	24	103	42	36	103	42
Unnamed trib. to KC	NE 35	103	42	5	102	42
Unnamed trib. to KC	26	103	42	32	103	42
Unnamed trib. to KC	2	103	42	20	103	42
Unnamed trib. to above	11	103	42	21	103	42
Unnamed trib. to KC	4	103	42	17	103	42
Unnamed trib. to KC	28	104	42	5	103	42
Unnamed trib. to KC	25	104	43	7	103	42
Unnamed trib. to above	29	104	42	6	103	42
Unnamed trib. to KC	1	102	43	15	102	43
Unnamed trib. to KC	17	102	43	31	102	43
	(Interstate 90)					
Unnamed trib. to KC	6	101	43	6	101	43
Unnamed tributary	9	102	43	18	102	43
Unnamed tributary	3	102	43	6	102	43
Unnamed tributary	NE 26	103	43	31	103	43
Unnamed tributary	16	103	43	31	103	43
Unnamed tributary	2	103	43	18	103	43
Unnamed tributary	SW 27	104	43	22	104	43
Unnamed tributary	18	104	42	14	104	43
Unnamed tributary	4	104	42	14	104	43
Unnamed tributary	NW 1	104	43	2	104	43
Unnamed trib. to above	6	104	42	1	104	43
Unnamed trib. to CC	3	104	43	14	104	43
Unnamed trib. to RR	4	104	43	7	104	43
Unnamed trib. to Tom Creek	32	101	42	32	101	42
Unnamed tributary	33	101	41	32	101	41
Unnamed tributary	NW 22	101	41	36	101	42
Unnamed tributary	14	101	41	9	101	41
Unnamed trib. to J.D. #1	5	101	40	6	101	40
Unnamed tributary	19	102	40	34	102	41
Unnamed trib. to LRR	29	102	41	4	101	41
Little Rock Creek (LRC)	SE 13	102	42	26	101	42
Unnamed tributary	12	101	42	23	101	42
Unnamed trib. to LRC	32	102	41	3	101	42
Trib. to above	24	102	42	2	101	42
Unnamed to LRC	4	101	42	10	101	42
Unnamed to LRC	9	101	42	15	101	42
Unnamed to LRC	20	101	42	26	101	42
Ocheyedan River	32 (Basin 9)	102	39	34	101	40
Unnamed tributary	36	101	40	26	101	40
Unnamed tributary	19 (State Hwy. 60)	101	40	34	101	40
Unnamed trib. to Ocheda L.	19	101	40	16 (Basin 24)	101	40

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed to Ocheda Lake	28	102	40	10 (Basin 24)	101	40
Trib. to C.D. #1	34 (Basin 7)	101	39	35	101	39
Unnamed to Indian Lake	29	101	39	27 (Basin 7)	101	39
Unnamed trib. to above	21	101	39	28	101	39
Unnamed tributary	5	102	39	10	102	39
Unnamed to Okabena Lake	17	102	40	28 (Basin 28)	102	40
Elk Creek	36	103	40	36	103	39
Unnamed tributary	18	103	40	28	103	39
Trib. to above	17	103	40	3	103	40
Trib. to above	14	103	40	7	103	39
Trib. to above	14	103	40	17	103	39
Trib. to above	30	103	39	20	103	39
Jack Creek	25	104	42	36	104	39
Unnamed tributary	4	103	39	4	103	39
Unnamed tributary	6	103	40	25	104	40
Unnamed tributary	14	104	42	30	104	41
Unnamed tributary	25	104	41	29	104	40
Unnamed tributary	18	104	40	22	104	40
Unnamed tributary	16	104	40	3	104	40
Unnamed	1	104	40	25	104	39
Unnamed	15	104	42	3	104	41
Trib. to above	16	104	41	10	104	41

B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
53-3 : Unnamed	5	101	39
53-10: Unnamed	33	102	39
53-23: Unnamed	27	104	39
53-46: Unnamed	1	104	40
53-47: Unnamed	8, 17	104	39
53-48: Unnamed	17	104	41
53-49: Unnamed	NE 23	104	42
53-52: Unnamed	8	104	41
53-59: Penning Marsh	6; 31	103; 104	41
53-30: Unnamed	34	102	40

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subs. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

OFFICIAL NOTICES

David B. Milles
 DNR—Division of Waters
 Third Floor, Space Center Building
 444 Lafayette Road
 Saint Paul, MN 55101
 Telephone: 612/297-2835

July 15, 1980

Joseph N. Alexander
 Commissioner of Natural Resources

Notice of and Order for Hearing In the Matter of Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Nicollet County

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1979) will be held in the Court House Building, St. Peter, Minnesota on August 18, 1980, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Warren Rodning, Rt. 2, Nicollet, MN 56074, Department of Natural Resources representative Paul Hansen, and Nicollet County Soil and Water Conservation representative Gerald Rodning, Rt. 2, Gaylord, MN 55334.

Each of the waters listed in this notice is the subject of a petition for hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1979) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1979):

A. Public Waters

1. Basins

Number and Name	Section	Township	Range
52-6 : Unnamed	8, 17, 18	110	27
52-8 : Erickson Lake	9, 10	110	27
52-12: Zwinggi Lake	3; 33, 34	110; 111	27
52-37: Peterson Lake	11, 12	110	29
52-40: Unnamed	27	110	29
52-47: Unnamed	1, 2	110	31

2. Watercourses

Name	Section	Township	Range	Section	Township	Range
Minnesota River (MR)	2	111	33	3	111	36
Little Rock Creek	3	111	32	30	111	31
Eight Mile Creek	16	111	31	32	111	32
Trib. to MR	27	111	31	3	110	31
Trib. to MR	36	111	31	2	110	31
Trib. to MR	30	111	30	7	110	30
Fritsche Creek	3	110	30	17	110	30
Heyman's Creek	22	110	30	27	110	30
	27	110	30	34	110	30
Trib. to MR	10	109	29	15	109	29
Trib. to MR	24	109	29	23	109	29
Nicollet Creek	6 (Basin 34)	109	28	33	109	28
Trib. to MR	32	109	27	7	108	27
Trib. to MR	35	109	27	36	109	27
Seven Mile Creek (SMC)	33	110	27	12	109	27
Trib. to SMC	10	109	27	10	109	27
Robarts Creek	31	111	26	4	109	26
Barney Fry Creek	24	111	27	10	111	26
Trib. to MR	4	111	26	3	111	26
Fort Ridgely Creek	6	111	32	7	111	32
S. Branch Rush River	5	111	27	5	111	27

B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
52-16: Unnamed	18, 19	111	27
52-26: Unnamed	9	109	28
52-53: Unnamed	29, 32	110	29
52-54: Unnamed	28	110	29
52-57: Unnamed	29, 30, 31, 32	110	29

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subd. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

David B. Milles
 DNR—Division of Waters
 Third Floor, Space Center Building
 444 Lafayette Road
 Saint Paul, MN 55101
 Telephone: 612/297-2835

July 15, 1980

Joseph N. Alexander
 Commissioner of Natural Resources

Notice of and Order for Hearing In the Matter of Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Steele County

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1979) will be held in the Court House Building, Court Room, Owatonna, Minnesota on August 12, 1980, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Tom Peterson, Blooming Prairie, MN 55917, Department of Natural Resources representative John Chell, and Steele County Soil and Water Conservation District representative Ruben Spinler, Rt. 2, Blooming Prairie, MN 55917.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1979) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1979):

A. Public Waters

1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
74-41: Unnamed	20, 21, 28, 29	106	19

OFFICIAL NOTICES

2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed to Crane Creek	16	107	21	3	107	21
Unnamed to SR	23 (CSAH 4)	106	21	13	106	21
Unnamed to LLSR	17 (Basin 22)	105	21	19	105	21
Rush Creek	2	108	19	1	108	20
	2	108	20	3	108	20
Medford Creek	28	108	19	4	108	20
Unnamed tributary	21	108	19	14	108	20
Maple Creek (MC)	1 (Basin 14)	107	19	9	107	20
Unnamed tributary	11 (Basin 1)	107	19	3	107	19
Turtle Creek	14 (Basin 10)	106	19	32	107	20
Unnamed tributary	20 (Basin 41)	106	19	20	106	19
Unnamed to SR	27	106	20	16	106	20
Unnamed to JD #2	5	105	19	14	105	20
County Ditch #22	not designated as public watercourse					
County Ditch #2	not designated as public watercourse					

B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
74-10: Unnamed	11, 12, 13, 14	106	19
74-13: Unnamed	27	106	19
74-14: Unnamed	1	107	19
74-15: Unnamed	2, 3	107	19
74-24: Fositen Lake	18	105	21
74-40: Unnamed	29	106	19
74-45: Unnamed	36	106	20
74-55: Unnamed	3	105	20

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subs. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

David B. Milles
 DNR—Division of Waters
 Third Floor, Space Center Building
 444 Lafayette Road
 Saint Paul, MN 55101
 Telephone: 612/297-2835

July 15, 1980

Joseph N. Alexander
 Commissioner of Natural Resources

Notice of and Order for Hearing In the Matter of Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Brown County

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1979) will be held in the Court House Building, District Court Room, New Ulm, Minnesota, on August 19, 1980, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Paul Rasmussen, RFD 3, Sleepy Eye, MN 56085, Department of Natural Resources representative Maynard Nelson, and Brown County Soil and Water Conservation District representative Orlin Mack, Rt. 1, New Ulm, MN 56073.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1979) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1979):

A. Public Waters

1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
8-11: Clear Lake	10, 11, 14, 15	109	31
8-25: Horseshoe Lake	31	111	31

2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed to N. Fk. Watonwan River	29 (Basin 26)	108	31	31	108	31
Little Cottonwood R. (LCR)	34	108	35	24	109	30
Unnamed tributary	29	109	30	20	109	30
Unnamed tributary	4	108	31	28	109	31
Unnamed tributary	2	108	31	34	109	31
Unnamed tributary	7	108	31	32	109	31
Unnamed tributary	8	108	31	8	108	31
Unnamed tributary	16 (Basin 14)	109	31	3	109	31
Unnamed tributary	1	109	32	36	110	32
Unnamed tributary	23	109	32	16	109	32
Unnamed tributary	34	109	33	20	109	32
Unnamed tributary	32 (Basin 54)	109	33	28	109	33
Unnamed tributary	26	109	34	19	109	33
Unnamed trib. to CR	SW 27	110	31	5	109	31

B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
8-13: Domeier Lake	15, 16	109	31
8-53: Unnamed	11, 14	108	33
8-56: Unnamed	13	109	33

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subs. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

OFFICIAL NOTICES

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your right in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

David B. Milles
 DNR—Division of Waters
 Third Floor, Space Center Building
 444 Lafayette Road
 Saint Paul, MN 55101
 Telephone: 612/297-2835

July 15, 1980

Joseph N. Alexander
 Commissioner of Natural Resources

Notice of and Order for Hearing In the Matter of Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Lyon County

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 105.391, subd. 1 (1979) will be held in the Court House Building, Commissioners Room, 607 W. Main, Marshall, Minnesota on August 14, 1980, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Paul Knoblauch, Amiret, MN 56112, Department of Natural Resources representative Tom Balcom, and Lyon County Soil and Water Conservation District representative Orville Erickson, Florence, MN 56130.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1979) and the criteria contained in Minn. Stat. § 105.37, subs. 14 and 15 (1979):

A. Public Waters

1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
42-5: South Twin Lake	30	109	40
42-8: Christianson Marsh	1, 2; 36	110; 111	40

2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Redwood River (RR)	35	109	43	15	112	40
Trib. to RR	4	112	40	15	112	40
Three Mile Creek (TMC)	19	111	43	20	112	40
Trib. to TMC	35	112	43	7	112	41
Unnamed tributary	34	112	43	30	112	42
Trib. to TMC	12	111	43	34	112	42
Trib. to TMC	29	111	42	27	112	42
Trib. to RR	20	112	41	15	112	41
Trib. to RR	29	111	42	13	111	42
Coon Creek	31	111	43	24	110	43
Trib. to RR	33	110	43	35	110	43
Trib. to RR	17	109	43	15	109	43
Yellow Medicine R. (YMR)	7	113	43	6	113	41
S. Branch YMR (SBYMR)	7	111	43	7	113	42
Trib. to SBYMR	19	112	43	35	113	43
Trib. to YMR	34	112	43	13	112	43
Unnamed tributary	27	112	43	18	112	42
Trib. to YMR	19	113	43	9	113	43
Unnamed tributary	SW 10	113	43	18	113	43
Trib. to YMR	6	112	43	20	113	43
Trib. to YMR	SW 31	113	43	20	113	43

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
Unnamed tributary	SE 31	113	43	32	113	43
Trib. to YMR	7	112	43	20	113	43
Trib. to YMR	30	113	43	20	113	43
Trib. to YMR	3	113	43	2	113	43
Trib. to YMR	2	113	43	1	113	43
Meadow Creek (MC)	4	110	42	22	111	41
MC	32	111	40	12	110	40
Trib. to MC	12	110	42	31	111	41
Trib. to MC	34	111	42	17	111	41
Trib. to MC	28	111	41	21	111	41
Trib. to MC	12	110	42	28	111	41
Unnamed tributary	31	111	41	29	111	41
Trib. to MC	36 (Basin 37)	111	41	32	111	41
Trib. to MC	33	111	41	27	111	41
Trib. to MC	7	110	41	36 (Basin 37)	111	41
Unnamed tributary	16	110	41	3	110	41
Trib. to MC	29	110	41	31	111	40
Trib. to MC	22	110	41	2	110	40
Unnamed tributary	27	110	41	7	110	40
Unnamed tributary	26	110	41	8	110	40
Trib. to MC	30	110	40	9	110	40
Cottonwood River (CR)	29	109	42	12	110	40
Trib. to CR	8	109	42	15	109	42
Trib. to CR	36	110	42	31	110	41
Trib. to CR	23	110	42	31	110	41
Trib. to CR	15	109	41	11	109	41
Trib. to CR	5	109	40	12	110	40
Trib. to CR	19 (Basin 3)	110	40	12	110	40
Unnamed tributary	34	109	40	24	110	40
Unnamed tributary	34	109	42	34	109	42
	36	109	42	32 (Basin 29)	109	41
Unnamed tributary	36	109	42	36	109	42
Unnamed tributary	23 (Basin 50)	109	42	24	109	42
Unnamed	20	109	40	36	110	40
Unnamed	14	109	40	12	109	40
Unnamed	24	109	40	24	109	40
Unnamed	25	109	40	25	109	40

B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
42-17 : Unnamed	17	113	40
42-31 : Unnamed	16	109	41
42-34 : Unnamed	SE 27	109	41
42-90 : Unnamed	12	111	43
42-91 : Unnamed	28	111	43
42-100: Unnamed	17	113	40
42-101: Unnamed	15	113	40
42-104: Unnamed	33, 34	113	40
42-106: Unnamed	14	113	43

OFFICIAL NOTICES

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

David B. Milles
DNR—Division of Waters
Third Floor, Space Center Building
444 Lafayette Road
Saint Paul, MN 55101
Telephone: 612/297-2835

July 15, 1980

Joseph N. Alexander
Commissioner of Natural Resources

Notice of and Order for Hearing In the Matter of Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Sibley County

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minn. Stat. § 106.391, subd. 1 (1979) will be held in the Court House Building, Annex Auditorium, 400 Court St., Gaylord, Minnesota, on August 8, 1980, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Calvin Schrupp, Gaylord, MN 55334, Department of Natural Resources representative Paul Hansen, and Sibley County Soil and Water Conservation representative Waldemar Grewe, Rt. 2, Gibbon, MN 55335.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minn. Stat. § 105.391 (1979) and the criteria contained in Minn. Stat. § 105.37, subds. 14 and 15 (1979):

A. Public Waters

1. Basins

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
72-12 : Unnamed	29, 32	112	26
72-30 : Severance Lake	7, 8, 17, 18; 13	114	27; 28
72-1 : Unnamed	8	113	25
72-6 : Kerry Lake	20, 21, 28, 29	114	25
72-9 : Horseshoe Lake	13	112	26
72-18 : Mud Lake	17, 19-22	114	26
72-38 : Duff Lake	2, 3	113	28
72-40 : Weimann Lake	11, 14	113	28
72-52 : Fadden Lake	14, 15, 22, 23	114	28
72-93 : Swan Lake	17-20	112	31
72-95 : Mud Lake	25, 26	112	31
72-103: Unnamed	24, 25	113	26
72-35 : Unnamed	33	112	28
72-36 : Rice Lake	33, 34	112	28

2. Watercourses

<u>Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
High Island Creek (HIC)	6	113	27	24	113	26

B. Wetlands

<u>Number and Name</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
72-8 : Hillstrom Lake	35	114	25
72-26 : Unnamed	6; 1	112	27; 28
72-27 : Unnamed	7; 12	113	27; 28
72-46 : Unnamed	3; 34	113; 114	28
72-51 : Unnamed	13	114	28
72-57 : Mud Lake	30, 31, 25, 36	114	28; 29
72-104: Unnamed	NW 35	114	28

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 15.0424 and 15.0425.

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1979). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1979).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to

David B. Milles
 DNR—Division of Waters
 Third Floor, Space Center Building
 444 Lafayette Road
 St. Paul, MN 55101
 Telephone: 612/297-2835

July 15, 1980

Joseph N. Alexander
 Commissioner of Natural Resources

Pollution Control Agency

Public Meeting Notice

The Minnesota Pollution Control Agency (MPCA) wants your ideas in setting next year's pollution control priorities for the agreement currently being developed between Minnesota and the U.S. Environmental Protection Agency (EPA). A public meeting will be held on the State of Minnesota's 1981 draft work plans for air, water, and solid waste pollution control and on the State/EPA agreement at the following location and date:

Minnesota Pollution Control Agency
 1935 West County Road B2
 Roseville, Minnesota 55113

August 7, 1980
 1:30 p.m.
 MPCA's Board Room (1st floor)

The MPCA uses its plans and the State/EPA agreement to establish pollution control priorities for each federal fiscal year. The plans

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guide allocation of staff and monetary resources and are used to assess the progress towards accomplishing pollution control goals. The plans are necessary for Minnesota to receive federal grant assistance for various programs.

Here is a broad summary of each division's topics of discussion at the meeting:

Air Quality Division:

- 1) Continuance of air monitoring and enforcement programs
- 2) Issuance of permits consistent with the Federal New Source Review requirements
- 3) Revisions of the State Implementation Plan (SIP) and implementation of the SIP (required by the Federal Clean Air Act)
- 4) APC 1 review (state air quality standards)
- 5) Indirect source review program
- 6) State operating permit program

Solid Waste Division:

- 1) Development and operation of hazardous waste regulation program
- 2) Classification of disposal sites as either sanitary landfills or open dumps, and in addition, establishment of compliance schedules for all open dumps to upgrade to landfill status or to be closed down
- 3) Promotion and encouragement of implementing alternatives to land disposal, such as recycling or recovery facilities

Water Quality Division:

- 1) Continuation of the state's administration of construction grants for wastewater treatment plants under Section 205 of the Federal Clean Water Act
- 2) Continuation of the effort to obtain federal assistance grants for other water pollution control projects
- 3) Initiation of groundwater protection strategy
- 4) Development and scheduling of a strategy for the cleanup of the Mississippi and Minnesota rivers in the Twin Cities metropolitan area

All interested citizens are invited to attend the public meeting and comment on the proposed plan or submit written statements. Copies of the draft plans are available for review during normal business hours at the Public Information Office in Roseville and in the five MPCA regional offices in Brainerd, Duluth, Detroit Lakes, Marshall, and Rochester beginning July 29th. Comments must be received by August 20. For additional information, contact the Public Information Office at the Roseville address, or call (612) 296-7373.

Department of Transportation

Notice of Intent to Prepare Department of Transportation List for Future Rule Making Hearings

Laws of Minnesota 1980, ch. 615, § 6 requires the Department of Transportation to maintain a list of all persons who have registered with the department for the purpose of receiving Notice of Rule Hearings.

Persons who wish notices of rule-making proceedings for the Department of Transportation are requested to notify the department, in writing, of this fact. Please address all correspondence to the address given below. Registrants with the department will receive notice of all rule-making proceedings when initiated.

Please be advised that this list will replace the list maintained by the Office of the Secretary of State. Persons desiring to register should send all correspondence to:

Minnesota Department of Transportation
Docket Coordination
Attention: K. H. Bjork
313 Transportation Building
St. Paul, Minnesota 55155

Dated this 18th day of July, 1980

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

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